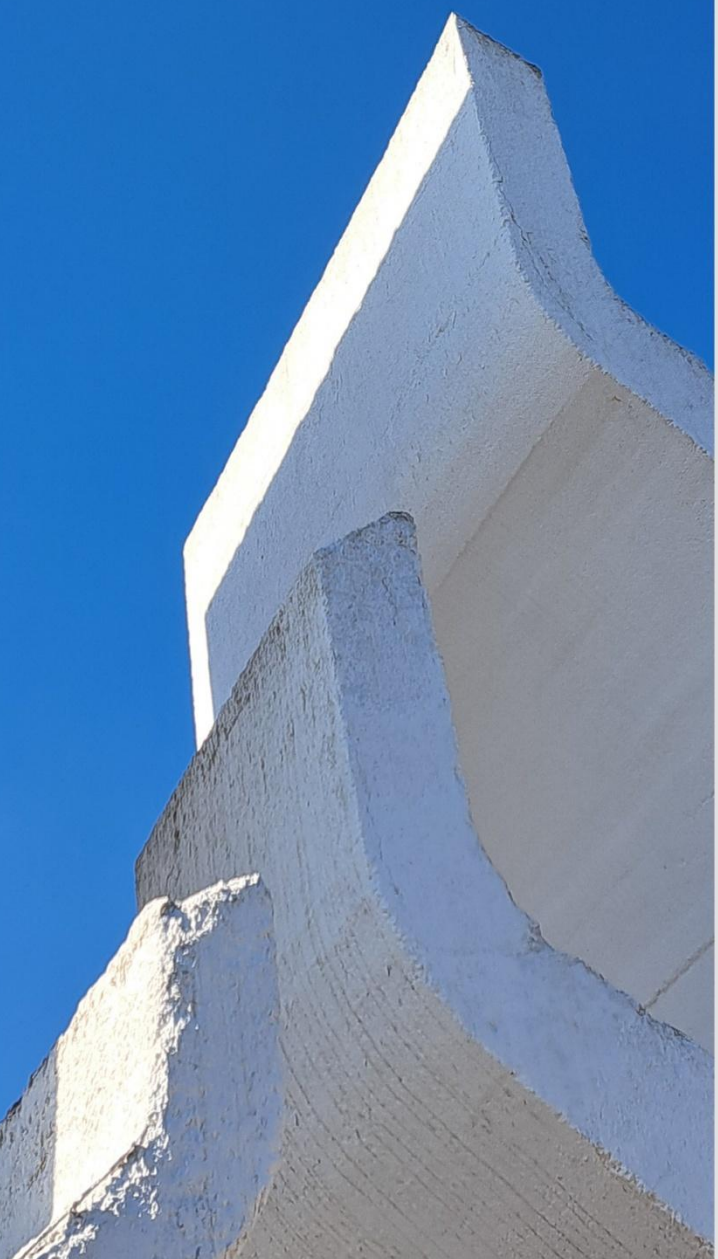
ISSN: 2955-2389
Vol. 2 No. 2 (2025)



Journal of Legal & Political Education

Journal of Legal and Political Education

Published by the Institute for Research and European Studies
Bitola, North Macedonia

For further information, please visit: www.iies.mk/jlpe

ISSN: 2955-2389 (online) | Open Access | Language: English
DOI: https://www.doi.org/10.47305/JLPE

First published on 12 July 2024

Postal Address:
Institute for Research and European Studies
Str. Orde Copela 13, PO Box 7000, Bitola
Republic of North Macedonia

Publisher Email: contact@iies.mk
Journal Email: jlpe@iies.mk

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Journal of Legal and Political Education · Volume 2 · Number 2 · 2025 · eISSN: 2955-2389
Published online by the Institute for Research and European Studies at www.iies.mk/jlpe

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Journal of Legal and Political Education · Volume 2 · Number 2 · 2025 · eISSN: 2955-2389
Published online by the Institute for Research and European Studies at www.iies.mk/jlpe

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(*) Corresponding author
Peer review method: Double-blind
Research article
DOI: https://doi.org/10.47305/jlpe.2025.1900
Received: 10.05.2025 • Accepted after revision: 08.10.2025 • Published: 19.10.2025
Pages: 5-23

Public Policies in Higher Education in Brazil: From Hollow Inclusion to Social Transformation through the Curricularization of University Extension

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Abstract: *Brazilian higher education has recently emphasized the curricularization of university extension, mandating the integration of extension activities into undergraduate curricula to foster social engagement and inclusion. This article critically examines the policy's historical, legal, and theoretical foundations, highlighting its potential to address "hollow inclusion," a phenomenon where formal commitments to equity and community engagement remain superficial. Drawing on Paulo Freire and Boaventura de Sousa Santos, the study employs a qualitative, document-based analysis of constitutional provisions, regulatory frameworks, and key theoretical texts. Findings reveal that while the legal framework is robust, implementation is hindered by entrenched academic culture, structural limitations, and inadequate resources. The study concludes that achieving meaningful curricular integration requires institutional support, faculty training, and genuine dialogue between universities and communities, ensuring extension fulfills its transformative educational and social mission.*

Keywords: *Higher Education; University Extension; Curricularization; Brazil; Hollow Inclusion; Public Policy; Social Engagement*

INTRODUCTION

Public policies for higher education in Brazil are perpetually evolving, reflecting the nation's dynamic social, political, and economic landscape. A recent, pivotal reform is the curricularization of university extension, a policy that mandates integrating extension activities into the core academic curriculum. This initiative aims to foster a more comprehensive, socially engaged education by bridging the gap between universities and society.

However, the effective implementation of this policy is often hampered by a phenomenon we might term "hollow inclusion", a rhetorical commitment to equity and social engagement that lacks substantive structural and pedagogical integration. This concept draws on critical education theorists like Paulo Freire (1983) and Boaventura de Sousa Santos (2009), who argue that accurate educational equity requires not just access but a transformative dialogue between academic and community knowledge. Hollow inclusion occurs when policies like curricularization are adopted in principle but fail to disrupt the traditional hierarchies that privilege theoretical teaching over practical, community-oriented engagement.

This article examines Brazil's curricularization of university extension, its historical and legal roots, and its potential to overcome hollow inclusion. By analyzing implementation challenges and prospects, it contributes to shaping a higher education system that is genuinely inclusive, socially relevant, and responsive to Brazil's needs.

HISTORICAL CONTEXT OF HIGHER EDUCATION IN BRAZIL

The trajectory of Brazilian higher education is marked by distinct phases that reflect the nation's political and social struggles. From its elitist origins to its contemporary massification, the system's evolution contextualizes the current drive to curricularize extension.

Colonization and Jesuit Education

The foundations of Brazilian higher education were established during Portuguese colonization, initiated by the arrival of the Jesuits in the 16th century. These religious missionaries introduced a structured educational model focused on evangelization and the training of indigenous peoples, which ultimately served to shape the colonial elite. Institutions like the Colégio de São Paulo, founded in 1554 and a precursor to the University of São Paulo (USP), were central to this project. While their primary aim was the formation of priests, they also educated the sons of Portuguese settlers, providing instruction in classical humanities, sciences, and religion.

As emphasized by scholars such as Severino (2006), the Jesuits played an indispensable role in founding Brazil's first educational institutions and cultivating its initial class of intellectuals. Their pedagogical approach, rooted in Ignatian principles, left a profound and lasting imprint on Brazilian culture and institutional life. Beyond the Colégio de São Paulo, other institutions such as the Colégio de Salvador in Bahia and the Colégio de Olinda in Pernambuco were established, crucially disseminating both Catholic doctrine and formal knowledge among colonial populations.

However, this early system was intrinsically exclusionary. Jesuit education was designed for the elite, primarily serving to consolidate the power of the colonial administration and the Church, while systematically excluding the poorer strata of society and indigenous communities. As historian José Antônio Tobias (1972) notes, despite these limitations, the Jesuit model significantly contributed to an incipient cultural and national identity, laying the groundwork for the country's future educational development.

A significant shift occurred in 1759 with the expulsion of the Jesuits from Brazil by the Marquis of Pombal. This event triggered a reorganization of the colonial educational system, leading to its secularization and the creation of new institutions. Nevertheless, the Jesuit pedagogical legacy endured, continuing to influence the structure and culture of Brazilian education for centuries.

Throughout the subsequent colonial and imperial periods, access to advanced learning remained a privilege of the elite. Many wealthy Brazilians pursued their studies at metropolitan universities, such as the University of Coimbra in Portugal. It was only with the influence of Enlightenment ideals and European liberalism that the first secular higher education institutions began to emerge in Brazil, such as the Rio de Janeiro School of Medicine, founded in 1808.

The era of colonization and Jesuit education played a pivotal role in shaping the trajectory of higher education in Brazil. It left a dual legacy: fostering a literate elite and advancing the country's cultural and intellectual development, while simultaneously establishing an exclusionary, elitist model that would pose persistent challenges to the democratization of knowledge for centuries to come.

Empire and the First Institutions

The Imperial Period (1822–1889) marked a pivotal phase in the development of Brazilian higher education, characterized by the nation's pursuit of a distinct intellectual identity. Initially, the education of the country's elite depended on European institutions, particularly the University of Coimbra in Portugal. As historian Emília Viotti da Costa (2010) notes, this education exposed Brazilian students to Enlightenment ideals, fostering a nascent sense of national consciousness. However, this dependence on foreign institutions increasingly came to be seen as an obstacle to national sovereignty and progress. This recognition encouraged the creation of Brazil's own higher education system. A landmark initiative was the Law of August 11, 1827, which established the first law schools in São Paulo and Olinda. These academies were designed to cultivate a domestic class of jurists and administrators essential for state-building. As observed by Sérgio Buarque de Holanda (1990), this represented a significant step toward the formation of a local intellectual elite. Following this, other professional schools emerged in fields like medicine, engineering, and the fine arts, aiming to meet the technical demands of the growing empire.

Despite this institutional advancement, the system was fundamentally shaped by the era's profound social and economic inequalities. Access to these new academies remained almost exclusively reserved for the sons of the political and economic elite. While the creation of local institutions was a crucial advance, it did not signify democratization. The imperial higher education model thus served to consolidate an exclusionary social order, effectively reinforcing the very hierarchies it emerged from by limiting knowledge and professional training to a small, privileged segment of the population.

Republic and the Expansion of Higher Education

The Proclamation of the Republic in 1889 marked a transformative era for Brazilian higher education, driven by a state-led agenda of modernization and nation-building. During this period, the university system was deliberately expanded to produce professionals, engineers, doctors, and lawyers, considered essential for a modernizing and industrializing nation. The establishment of landmark institutions like the Federal University of Rio de Janeiro (UFRJ) in 1891 and the University of São Paulo (USP) in 1934 embodied this republican ideal, shifting the educational axis from ecclesiastical and imperial models toward a secular, public system (Schwartzman 1988). However, this expansion, while significant, was characterized by a fundamental tension between the rhetoric of democratization and the reality of persistent exclusion—a dynamic we can analyze through the theoretical lens of "hollow inclusion."

The concept of "hollow inclusion" describes policy implementations that achieve formal or rhetorical compliance with equity goals without enacting substantive, transformative integration. In the context of Republican Brazil, this meant creating new institutions and expanding enrollments, yet doing so in a way that largely reproduced existing social hierarchies. The expansion was not primarily designed as a tool for radical social mobility but for the formation of a technical and intellectual elite, thereby maintaining the university as a space for the privileged, though under a new, meritocratic appearance that often masked underlying socioeconomic barriers.

The Republican period saw the state actively assume the role of educational architect. The creation of UFRJ and USP represented a decisive move away from reliance on professional schools and on foreign education. These universities were designed as comprehensive centers for producing knowledge and national identity, central to the republican vision of progress. As Schwartzman (1988) argues, the organization of this system was deeply influenced by positivist and modernist ideals, where education was directly linked to national development. This was a top-down, state-driven process, focused on creating capacity rather than ensuring broad-based equity.

The expansion continued throughout the 20th century, particularly during the latter half, with the creation of more federal and state universities across the country's diverse regions. This geographical diversification was a crucial step to decentralize knowledge production and opportunities. Alongside institutional growth, the period also saw the genesis of future inclusion policies. While a comprehensive national quota system was a 21st-century development, the republican era laid the groundwork for such interventions by establishing the principle of the state's responsibility to broaden access, albeit initially through limited and often ineffective programs.

Despite these advances, the Republican model of expansion faced severe limitations, exposing its "hollow" character. The quality of education varied dramatically between new and established institutions, and a chronic lack of financial resources and adequate infrastructure plagued the system. Profound social and economic inequalities also circumscribed the promise of democratization. Access to the expanding university system remained limited primarily to the urban middle and upper classes, who were better prepared to pass the rigorous vestibular entrance exams. As a result, much of the population, including people living in poverty, as well as Black and Indigenous communities, were effectively excluded from the benefits of this educational expansion.

As scholars like Maria Helena Guimarães de Castro (1999) have highlighted, the expansion of higher education during this period was a double-edged sword. It undoubtedly contributed to national development and created a larger professional class. However, without concurrent, robust policies to address deep-seated social inequities, it also risked reinforcing them. The system expanded in size but often failed to transform in character, remaining an elite enclave rather than becoming a truly democratic platform for social mobility.

The Republican period fundamentally reshaped Brazilian higher education, replacing a colonial and imperial legacy with a modern, public university system designed to promote national development. The establishment of flagship universities and the expansion of higher education nationwide were significant achievements. However, this expansion was inherently limited. Its underlying logic often perpetuated a form of "hollow inclusion," in which the system grew in capacity but did not fundamentally challenge the social structures that governed access and success. The persistent challenges of quality, funding, and genuine equitable access during this era highlight that the democratization of higher education remained, and to a significant extent continues to remain, an incomplete project, setting the stage for the more targeted inclusion policies of the contemporary period.

Military Dictatorship and University Reforms

During the period of the Military Dictatorship in Brazil, which began in 1964 and lasted until the mid-1980s, higher education underwent significant transformations that reflected both setbacks and advances in the structure and functioning of academic institutions. The university reforms implemented during this time aimed to control the academic environment and direct higher education toward areas considered strategic for the regime, such as engineering and medicine.

The military government implemented a series of measures to suppress freedom of expression and control political activity on university campuses. Through Institutional Act No. 5 (AI-5), enacted in 1968, constitutional guarantees were suspended, and the powers of the military regime were expanded, enabling intervention in universities and the persecution of students and professors deemed subversive. One of the most significant university reforms during the Military Dictatorship was the 1968 University Reform, which aimed to restructure higher education institutions to align with the regime's interests. This reform established governance structures that centralized power in government-appointed rectors, thereby reducing student and faculty participation in university decision-making.

Moreover, the 1968 University Reform brought changes to curricula and educational programs, aiming to direct student training toward areas considered strategic for national development, such as engineering, medicine, and exact sciences. Faculties and courses focused on these areas were established, while social sciences and humanities were marginalized, suffering from censorship and ideological persecution.

Despite the political repression and setbacks, the period of the Military Dictatorship also saw significant advancements in higher education in Brazil. During the 1960s and 1970s, the number of universities and higher education institutions in the country increased substantially, expanding access to higher education for more Brazilians.

Additionally, policies to encourage scientific and technological research were implemented to strengthen the country's science and technology sectors and promote industrial and economic development. Programs for research funding and scholarships for students and researchers were established, as were research support institutions such as the National Council for Scientific and Technological Development (CNPq) and the Coordination for the Improvement of Higher Education Personnel (CAPES).

Authors such as Florestan Fernandes (1975) and Paulo Freire criticized the military regime's instrumentalization of higher education, highlighting the negative impact of university reforms on the autonomy and quality of Brazilian higher education. They argued that the regime's changes sought to control critical thinking and promote a technical, alienated form of education at the expense of a humanistic, democratic model. In defending the importance of scientific research for university organization, Fernandes (1983) emphasized that:

> To keep up with the relentless progress in various branches of scientific knowledge, the university must produce, through its own means, at least some portion of that progress; to be able to communicate the techniques of scientific knowledge to the surrounding environment, the university needs internal avenues for the discovery, application, and evaluation of such techniques (p. 364).

It is important to note that Freire emphasized the need for universities to engage with society, recognizing that such engagement fosters meaningful cultural change. He argued that individuals, as social and political beings, transform the world through their work, and this transformation depends on a deep understanding of their craft, even if that understanding varies in depth. As Freire observed, "No one knows everything, just as no one is completely ignorant" (Freire 1983, 47). This issue remains central to public education today, as the persistent belief that "theory and practice are separate" continues, along with the notion that legitimate knowledge resides solely with academic authorities. In contrast, knowledge produced outside universities is often dismissed as mere folklore or belief.

Although university extension was not a priority during the Military Dictatorship and remained a peripheral concern in the early 1980s (Freire 2011, 11), a pivotal change occurred in 1985, as Sousa (2000, 97) notes: the introduction of direct elections for university leaders by popular vote. This reform enabled individuals dedicated to advancing university interests to attain leadership positions. Consequently, extension programs began to play a crucial role as intermediaries between teaching and research, focusing on societal transformation, particularly as awareness of public welfare grew.

Nonetheless, despite these developments and achievements during the Military Dictatorship, the period was characterized by repression and authoritarianism that restricted academic freedom and democratic discourse within universities. Political persecution and ideological censorship directly impacted the quality and autonomy of higher education in Brazil, leaving a legacy of resistance and advocacy for democracy and human rights within the academic sphere.

Redemocratization and the Constitutional Mandate

The end of the military dictatorship in the mid-1980s marked a profound turning point for Brazilian higher education, initiating a period of redemocratization defined by political opening and a renewed sense of social mission. This era was characterized by the restoration of university autonomy, including the election of rectors, and vibrant internal debates about the institution's relationship with society. It was within this context that the principle of the indissociability between teaching, research, and extension was elevated from a theoretical ideal to a constitutional mandate.

The 1988 Federal Constitution marks the foundation of this new era. Article 207 explicitly guarantees university autonomy and establishes the "indissociability of teaching, research, and extension" as a core principle for federal universities. This constitutional provision laid the legal groundwork for a wave of transformative policies. In the following decades, the higher education system experienced unprecedented expansion, driven by the establishment of new federal universities throughout the country's interior—a strategic effort to promote regional development and decentralize access.

This expansion was coupled with ambitious inclusion policies designed to combat the historical "hollow inclusion" of the past. Programs like the University for All Program (ProUni) and the Student Financing Fund (FIES) were launched to create pathways for low-income students into private institutions.

More significantly, the landmark Law No. 12,711/2012 (Brazilian Quotas Act),[1] which instituted a nationwide quota system in federal universities, represented a direct legal intervention to redress historical inequalities. By reserving spots for graduates of public schools, Black, Indigenous, and disabled students, this policy moved beyond rhetorical inclusion to mandate substantive representation.

Alongside this access-oriented expansion, the redemocratization period fostered the institutionalization of the university's third mission. The Forum of Pro-Rectors of Brazilian Public Higher Education Institutions (FORPROEX) emerged as a key actor, consolidating decades of academic activism into a coherent policy framework. This effort culminated in the 2012 National University Extension Policy, which provided a unified definition of extension as an "educational, cultural, and scientific process that integrates Teaching and Research in an inseparable manner." The policy was instrumental in elevating extension from a peripheral activity to a core academic function, directly operationalizing the constitutional principle of indissociability and laying the groundwork for its subsequent curricularization.

Despite these significant advancements, the implementation of this democratic project revealed enduring challenges. The rapid expansion often strained institutional capacity, leading to disparities in educational quality and infrastructure between new and established universities. Chronic underfunding threatened to create a new form of hollow inclusion, where access was granted but the conditions for meaningful academic success were compromised. Furthermore, the higher education system began confronting new global pressures, including the demands of internationalization, the precariousness of academic labor, and the tension between public mission and commercializing forces (Sobrinho 2002; Costin 2020).

The redemocratization period fundamentally redefined Brazilian higher education, embedding social inclusion and engagement into its legal and institutional framework. The constitutional mandate, the expansion of the federal university network, and the development of robust inclusion policies marked a decisive break with the country's elitist past. However, the persistence of funding crises and quality disparities demonstrates that legal and policy frameworks, while necessary, are not sufficient on their own. The enduring challenge is to ensure that the substantive integration of a diverse student body and the deep curricularization of community engagement are supported by sustainable resources and a sustained commitment to the university as a public good, thereby ensuring that the inclusion achieved is meaningful rather than hollow.

THEORETICAL FRAMEWORK AND LEGAL FOUNDATIONS OF CURRICULARIZATION

The interconnection between teaching, research, and extension is established in Article 207 of the 1988 Constitution of the Republic. Despite the complexity of the principles outlined in the constitutional text, in practice, these ideals are often appropriated only rhetorically. The current conception of the "tripod" of teaching, research, and extension falls short of the expectations of pre-constitutional movements. Rather than a balanced structure characterized by mutual coexistence and collaboration among the three elements, the reality is more uneven:

[1]The term "Brazilian Quotas Act" commonly refers to Law No. 12.711/2012, which requires that a minimum of 50% of places in public higher education institutions be reserved for students who graduated from public high schools.

teaching predominates as the primary axis, followed by research, while extension is relegated to a secondary, often marginal role. This is why the curricularization of extension has emerged as a process of integrating extension activities into the academic curriculum, recognizing it as a fundamental function of the university. The critical theories of Paulo Freire and Boaventura de Sousa Santos strongly influence this transformation. It challenges the traditional "banking" model of education, promoting instead a dialogical approach in which academic knowledge and community wisdom interact reciprocally. The aim is to replace a unidirectional transfer of information with a collaborative process of knowledge co-creation. In this context, curricularization serves as the practical mechanism to ensure that the university fulfills its social contract, shaping students into ethically grounded professionals and actively breaking down the barriers between the academy and society to foster genuine, equitable development.

Beyond Hollow Inclusion: A Theoretical Perspective

The term "hollow inclusion" refers to a policy implementation that is formalistic rather than substantive. In the context of Brazilian higher education, it highlights the gap between the constitutional ideal of teaching, research, and extension, and the reality in which extension is often a peripheral, underfunded activity. This creates a structure in which teaching dominates, research occupies a secondary role, and extension remains a weak, "hollow" third element, lacking real influence and integration. This concept aligns with Boaventura de Sousa Santos's (2009) critique of the "university of excellence," which often prioritizes metrics over social relevance. It also resonates with Paulo Freire's (1983) seminal critique of "extension," which he associated with a banking model of education, where knowledge is "deposited" into passive communities rather than exchanged through a dialogical process of mutual learning. Curricularization, therefore, offers a potential remedy to hollow inclusion by legally and structurally ensuring that extension is a core, integrated element of the curriculum, fostering genuine dialogue between the university and society.

The Legal and Jurisprudential Dimension

The legal foundation for the curricularization of extension in Brazil is both robust and multi-layered, creating a compelling legal obligation for higher education institutions. This framework begins with the supreme law of the land: Article 207 of the 1988 Federal Constitution. This article is not a mere suggestion; it is a constitutional principle that guarantees university autonomy and, crucially, establishes the "indissociability of teaching, research, and extension" as a foundational pillar for federal universities. This elevated the concept of extension from a peripheral activity to a core function of the university, imbuing it with significant legal weight.

However, a constitutional principle requires specific regulation to become actionable policy. This is where CNE/CES Resolution No. 7/2018 serves as the critical linchpin. Issued by the National Council of Education, this resolution operationalizes the constitutional mandate by setting forth concrete, measurable guidelines for its implementation. Its provisions are deliberately designed to force structural change within academic curricula. Article 3 provides a transformative definition, characterizing extension as an educational process that "stimulates the

transformative interaction between higher education institutions and other sectors of society." This wording explicitly frames extension as a two-way, dialogical exchange, moving beyond a simple charity or outreach model.

The most impactful provision, however, is Article 4, which mandates that extension activities comprise at least 10% of the total course workload. This quantitative requirement is the legal engine of curricularization. It transforms an abstract constitutional ideal into a non-negotiable, measurable institutional requirement, forcing a fundamental re-evaluation of curriculum design and resource allocation. This 10% quota acts as a powerful legal lever to combat the phenomenon of "hollow inclusion." Without such a specific mandate, the principle of indissociability could remain a rhetorical commitment, easily sidelined by traditional academic priorities. The resolution forces institutions to create dedicated space, time, and credit for extension, ensuring it cannot be treated as an optional add-on.

The trajectory from Article 207 of the Constitution to Article 4 of Resolution No. 7/2018 reflects a deliberate and powerful legal strategy. It elevates the curricularization of extension from a philosophical ideal to a binding institutional obligation. This legal framework does not merely encourage integration; it mandates it, creating the necessary pressure to dismantle historical barriers and compelling universities to fulfill their social function in a structural sense. The effectiveness of this framework, however, ultimately depends on its enforcement and on a cultural shift within the academic community to ensure that integration is substantive and transformative, rather than a mere bureaucratic exercise.

Defining the Curricularization of Extension and Its Integration into the Curriculum

The foundational concept of university extension in Brazil is authoritatively defined by FORPROEX (2012) as "the educational, cultural, and scientific process that integrates Teaching and Research in an inseparable manner and facilitates the transformative relationship between the university and society." This definition is pivotal, as it positions extension not as a peripheral activity, but as an essential component of the academic mission, on equal footing with teaching and research. The emphasis on a "transformative relationship" positions the university not as a detached ivory tower, but as an active agent in a dynamic, two-way exchange with the community. This process is designed to be mutually beneficial: society gains access to academic knowledge, while the university is enriched and challenged by the practical wisdom and lived experiences of the community, thereby grounding its theoretical production in real-world contexts.

The curricularization of extension is a strategic and systematic process designed to implement this definition. It entails the mandatory, structured integration of extension activities into undergraduate curricula, moving them from the periphery of voluntary or extracurricular activities to the core of academic life. This institutionalization directly addresses the historical marginalization of extension, ensuring it receives formal recognition, a dedicated workload, and necessary resources.

The primary objective of this transformation is twofold. First, it seeks to strengthen the symbiotic relationship between the university and society, dismantling traditional barriers. Second, and more importantly, it aims to establish a new paradigm of professional training. By embedding community engagement into the curriculum, the process cultivates graduates who

are not only technically competent but also critically aware of societal structures, ethically grounded, and committed to addressing pressing social challenges. In doing so, education is transformed from a passive acquisition of knowledge into an active practice of citizenship and social responsibility.

METHODOLOGY

This study employs a qualitative, document-based methodology to critically examine Brazil's policy framework governing the curricular integration of university extension activities.

Therefore, a purposive sample of key documents was selected for analysis, including:

- Legal Documents: The 1988 Federal Constitution and CNE/CES Resolution No. 7/2018.
- Policy Frameworks: The National University Extension Policy (FORPROEX 2012).
- Theoretical Texts: Foundational works by authors such as Paulo Freire (1983), Boaventura de Sousa Santos (2009), and Florestan Fernandes (1975).

Additionally, the analysis followed a two-stage process. First, a content analysis of the legal and policy documents was conducted to identify key themes, mandates, and implementation guidelines. Second, a thematic analysis of the theoretical texts was performed to construct a conceptual framework around "hollow inclusion" and social transformation. Data triangulation was achieved by cross-referencing findings from these different types of sources (legal, policy, and theoretical) to build a coherent and critical narrative.

Finally, initial open coding of the documents identified recurring concepts, such as "indissociability," "social transformation," and "implementation challenges." These concepts were then grouped into axial codes, including "Legal Foundations," "Theoretical Critique," and "Institutional Barriers," which ultimately formed the structure of the analysis.

RESULTS, DISCUSSION, AND COMPARATIVE ANALYSIS

This section presents the analysis results, exploring what the data reveal, the policy ideals underlying the framework, and the real-world obstacles to implementing those ideals. It examines how the policy's aspirations align with, or fail to align with, practice, discussing both strengths and weaknesses. Key findings show where the policy works in theory but breaks down in execution due to resource limitations, institutional constraints, or unintended consequences. The implications of these findings are then considered, highlighting what must change for the policy to achieve its goals. Finally, practical lessons are identified to inform future improvement efforts.

The Persistence of Hollow Inclusion

The document analysis reveals a striking gap between the legal-theoretical mandate and the lived realities of practice. Although the Constitution and Resolution 7/2018 provide a strong, formal commitment to integrating extension into university curricula, this promise is often unfulfilled in actual institutional practice. Extension tends to function not as a central, constitutive dimension of academic life, but rather as a superficial, "tacked-on" requirement.

One of the main barriers is a deeply entrenched academic culture that places overwhelming emphasis on traditional research and teaching. Within this culture, extension is often perceived as an unnecessary burden, seen as external or supplementary work rather than a core component of knowledge production. The prevailing mindset holds that scholarly prestige and career advancement are derived primarily from publications and teaching performance, while extension is secondary and undervalued. These attitudes are reinforced by institutional incentives, evaluation criteria, reward structures, and faculty expectations that privilege conventional scholarship.

Cultural resistance is further reinforced by misunderstandings about what university extension entails. Some actors perceive it solely as service or outreach rather than as a process of knowledge co-production, critical engagement, and transformation. This perspective often leads to tokenistic practices, such as offering extension activities without meaningfully integrating them into curricula or treating them as optional extras that students and faculty can easily ignore.

Scholars such as Freire (1983) and Santos (2009) argue that unless academic culture shifts to recognize extension as integral to the production and validation of knowledge, curricularization cannot realize its transformative potential. Freire's critique of the "banking model" of education, which treats learners as passive recipients of knowledge, underscores the importance of participatory, dialogic, and socially engaged practices. Similarly, Santos highlights the epistemological and institutional hierarchies that marginalize alternative, socially situated forms of knowledge.

Although the legal foundation for extension is robust, institutional norms, cultural resistance, conventional incentive structures, and narrow definitions of legitimate academic work impede full implementation. Without addressing these deep cultural and structural challenges, the curricularization of extension risks remaining symbolic rather than substantive—a mandate on paper but hollow in practice.

Structural and Resource-Based Barriers

The analysis reveals significant structural barriers that extend well beyond cultural resistance. Many educational institutions lack sufficient funding, administrative capacity, and faculty development to support extension work that is genuinely integrated into curricula. Without stable financial resources, initiatives struggle to move beyond pilot projects or occasional programs. Additionally, the absence of dedicated administrative offices or staff positions for extension weakens coordination and oversight, leading to poorly monitored projects, limited evaluation, and limited sustainability. On the faculty side, training and professional development in extension methodologies, community engagement, or participatory approaches are often insufficient, constraining the quality, creativity, and impact of extension activities.

The legal requirement, outlined in Article 4 of Resolution 7/2018, that extension activities account for at least 10% of undergraduate course workloads is often followed in form rather than in substance. Instead of creating innovative, dialogical extension projects integrated into course structures, many institutions relabel conventional activities as "extension." These may include occasional community outreach, service tasks, or events repurposed to fill the required

hours without altering the curriculum's core or pedagogy. Such strategies preserve the appearance of compliance while failing to engage students and faculty in transformative, socially responsive learning. In effect, the hollowing persists: extension exists in name but lacks integrity or impact. Thus, structural deficits, resource shortages, administrative neglect, and insufficient faculty preparation, combined with the superficial implementation of workload mandates, undermine the policy's transformative potential. To address these challenges, institutions must commit adequate resources, reconsider incentive structures, establish robust support mechanisms, and provide meaningful training, ensuring that the 10% requirement becomes an opportunity for curricular innovation rather than a mere checkbox.

Comparative Analysis: Ideals vs. Implementation

A comparative analysis of the policy's goals against these implementation challenges is instructive, as shown in Table 1.

Table 1: Policy–Implementation Gap in the Curricularization of University Extension in Brazil (Source: Author's depiction)

Foundational Policy Goals for University Extension in Brazil	Core Principles of the Curricularization Policy (FORPROEX 2012; Resolution 7/2018)
Policy goal (FORPROEX 2012; Resolution 7/2018)	Implementation challenge (as revealed by this analysis)
Transformative interaction between university and society	Tendency towards unidirectional outreach rather than dialogical collaboration
Indissociability of teaching, research, and extension	Compartmentalization of extension as a separate, secondary activity
Promotion of social equity and inclusion	Hollow inclusion due to a lack of resources and genuine pedagogical integration
Development of critical, civic-minded professionals	Difficulty in assessing and valuing the non-traditional learning outcomes of extension

This comparison underscores that the success of curricularization depends not only on overcoming legal and structural hurdles but also on addressing deeply ingrained cultural and pedagogical norms within the academy.

FUTURE PERSPECTIVES AND POLITICAL IMPLICATIONS

The ultimate success of the curricularization of extension in Brazil hinges on a critical transition: moving beyond mere formal compliance with legal mandates to achieving deep, substantive integration. Realizing this transformative potential requires a concerted, multi-faceted approach that addresses the financial, cultural, and pedagogical dimensions of the challenge. Without such a comprehensive effort, the policy risks remaining a bureaucratic exercise in "hollow inclusion," fulfilling the letter of the law while leaving its spirit unfulfilled.

The first and most fundamental prerequisite is a robust, strategic commitment from the government that extends far beyond issuing mandates. While resolutions like CNE/CES 7/2018

provide the necessary legal pressure, they must be backed by adequate and sustained funding streams specifically earmarked for community-engaged work. This includes dedicated grants for extension projects that require partnership-building, materials, and community involvement. Crucially, funding must also support comprehensive faculty development programs in extension pedagogy. Professors, often trained within traditional disciplinary silos, require training in methodologies for participatory action research, community-based learning, and the ethical co-creation of knowledge. Without this support, even well-intentioned faculty may lack the tools to design and execute extension activities that are truly dialogical and transformative, rather than merely charitable.

Concurrently, higher education institutions must proactively engineer a cultural shift within their own walls. The prevailing academic reward structures, which overwhelmingly prioritize traditional research publications and individual scholarly achievement, present a significant barrier. To foster a genuine culture of engagement, universities must create and implement clear incentive structures that formally recognize and reward engaged scholarship in processes for career advancement, promotion, and tenure. This involves valuing community impact reports, co-authored publications with community partners, and other forms of scholarship that demonstrate public impact. This strategic alignment of institutional incentives is essential to validate extension as a legitimate and prestigious academic pursuit, directly addressing the theoretical imperative articulated by Boaventura de Sousa Santos (2009) to value the knowledge produced at the dynamic interface between the university and society.

Finally, and most importantly, truly addressing the phenomenon of hollow inclusion requires a radical democratization of the entire process. This entails moving beyond a model in which the university unilaterally "provides" solutions to a community seen as a passive recipient. Instead, active and meaningful community participation must be embedded from the outset, with communities recognized as co-creators and essential partners in co-designing projects, defining research priorities, and evaluating outcomes. This collaborative approach transforms extension from a service delivered by the university into a genuine dialogue where all parties are both teachers and learners. It is in this reciprocal exchange that the Freirean (1983) ideal of a mutually educative encounter is fulfilled. In this model, the university does not merely impact society; it is itself transformed by the encounter, leading to a more critical self-understanding and a curriculum that is continuously renewed and relevant. This democratic deepening is the ultimate safeguard against hollow inclusion, ensuring that the curricularization of extension becomes a powerful force for building a more just, equitable, and responsive higher education system.

CONCLUSION

The curricularization of university extension in Brazil represents a profound paradigm shift with the potential to redefine the social contract of higher education. Conceived as a direct legal and pedagogical response to the historical problem of "hollow inclusion," this policy mandates integrating community engagement into the core curriculum, thereby challenging the academy to embody its constitutional role as an agent of social transformation. This analysis elucidates both the transformative potential of this mandate and the significant systemic barriers that threaten its substantive implementation.

The primary findings of this study reveal a critical tension between policy ideals and institutional practice. While the policy goals, such as fostering dialogical collaboration and ensuring the indissolubility of teaching, research, and extension, are ambitious, their implementation is hindered by deeply entrenched academic cultures. The analysis identifies key obstacles, including the compartmentalization of extension as a secondary activity, a tendency toward unidirectional outreach rather than reciprocal collaboration, and the practical difficulty of assessing the complex, non-traditional learning outcomes that engagement produces. Without addressing these foundational issues, the policy risks perpetuating a new form of hollow inclusion, in which procedural compliance replaces genuine pedagogical transformation.

The broader implications of this research extend beyond the Brazilian context, contributing to global debates on the civic mission of universities. It demonstrates that legal mandates, while necessary, are insufficient to drive cultural change. The relevance of this study lies in its demonstration that, for engagement to be truly transformative, it must be supported by a coherent ecosystem of sustainable funding, robust administrative support, and comprehensive faculty development in community-engaged methodologies. This underscores the need for a holistic approach to institutional reform that aligns resources, incentives, and pedagogical practices with the stated policy objectives.

As a qualitative document analysis, this study has certain limitations. Its findings are based on policy texts and institutional documents, and thus capture the normative dimensions and challenges at a macro level. The lived experiences of faculty, students, and community partners, the micro level interactions that ultimately define success, represent a critical area for future research. Subsequent studies should employ ethnographic, case study, or mixed-methods approaches to investigate the on-the-ground realities of implementation and its impact on learning and community development.

The success of curricularization cannot be measured solely through quantitative metrics. Its accurate measure will be qualitative, reflected in the authenticity of the university community dialogue and the development of critically aware, ethically committed citizens. Therefore, future efforts must include the creation of nuanced qualitative indicators to assess this impact. If supported by the necessary commitment and critical reflection, this policy can move beyond a mere administrative adjustment to become a powerful instrument for building a higher education system that is not only more equitable in its composition but also more relevant and democratic in its purpose, thereby fulfilling the promise of a university that truly serves all Brazilians.

CONTRIBUTOR

The author contributed solely to the intellectual discourse that forms the foundation of this article, as well as its writing and editing, and assumes full responsibility for its content and interpretation.

COMPLIANCE WITH ETHICAL STANDARDS

Acknowledgments:
Not applicable.

Funding:
Not applicable.

AI Declaration:
The authors acknowledge the use of AI tools—specifically ChatGPT-5—to assist in translating and enhancing the clarity and quality of the English language in this manuscript. These AI tools were employed solely for language refinement and were not involved in the conceptualization, analysis, or development of the scientific content. The authors assume full responsibility for the manuscript's originality, accuracy, validity, and integrity.

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This article does not contain any studies with animals performed by any authors.

Informed Consent:
Not applicable.

Disclosure statement:
No potential conflict of interest was reported by the author/s.

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Journal of Legal and Political Education · Volume 2 · Number 2 · 2025 · eISSN: 2955-2389
Published online by the Institute for Research and European Studies at www.iies.mk/jlpe

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(*) Corresponding author
Peer review method: Double-blind
Research article
DOI: https://doi.org/10.47305/jlpe.2025.1904
Received: 05.05.2025 • Accepted after revision: 19.10.2025 • Published: 24.10.2025
Pages: 24-45

Simulating Justice: Using Roleplay and Moot Court to Teach Human Rights in Value-Diverse Environments

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Abstract: *Teaching human rights law poses distinct challenges in societies where political, cultural, or religious values reduce the emphasis on individual rights. Traditional liberal democratic frameworks often clash with local worldviews, creating student resistance and disengagement. This study explores how simulation-based learning through roleplay and moot courts can enhance human rights education in value-diverse or resistant contexts. Using a systematic literature review, it analyzes global case studies to evaluate the pedagogical, ethical, and affective impacts of simulations. Findings show that simulations improve engagement, empathy, and critical thinking while offering a neutral environment for discussing controversial issues. However, effectiveness depends on skilled facilitation and contextual adaptation. The study concludes that simulations are transformative tools that strengthen students' legal reasoning, empathy, and professional competence in culturally plural environments.*

Keywords: *Human Rights Education; Simulation; Roleplay; Moot Court; Pedagogy*

INTRODUCTION

Human rights law presents distinctive educational challenges for legal institutions, especially those operating in regions where political systems or cultural and religious beliefs diminish or discourage the importance of individual rights. This difficulty arises because human rights education is typically grounded in a liberal democratic framework that emphasizes universal rights, individual autonomy, and protection against state interference. However, these assumptions often conflict with the prevailing cultural values, communal practices, and political discourses across the world, including in transitional democracies and traditional societies.

For legal educators, this divergence creates significant challenges in teaching rights-based frameworks to students who may be resistant, disinterested, or even opposed to such norms. Traditional lecture-based methods often fail to engage students meaningfully or to promote a deep understanding of human rights principles. Therefore, innovative educational approaches are needed that go beyond conventional instruction and foster active learning.

Experiential and simulation-based learning strategies, such as roleplay exercises and moot courts, offer practical tools to enhance student engagement and understanding. By participating in simulated legal processes, students assume different roles, analyze human rights cases, and develop their reasoning and advocacy skills in an interactive, structured environment. These pedagogical simulations not only make learning more dynamic but also encourage students to critically reflect on the principles and practices that shape human rights law.

Problem Statement

Traditional lecture-based legal education struggles to effectively engage students with human rights content, particularly when learners do not share the foundational assumptions of human rights law. Students who feel disconnected from human rights principles often find the material abstract, controversial, or irrelevant to their cultural and political context. In environments where political ideologies or social norms conflict with liberal-democratic notions of individual rights, rights-based advocacy in the classroom can create resistance or discomfort among students.

This research investigates how human rights law can be taught more effectively in such value-diverse educational contexts. Specifically, it explores whether simulation-based methods, such as roleplay exercises and moot courts, can bridge the gap between theoretical human rights frameworks and active student engagement, fostering deeper understanding even among students initially resistant to the subject.

Objective

This research examines the effectiveness of roleplay and moot court simulations in improving human rights law education within educational environments that resist the universality of human rights. The study aims to:

- Investigate how simulation methods can foster a critical understanding of human rights through innovative pedagogical approaches.
- Explore the strengths and weaknesses of simulation-based teaching methods compared to traditional educational approaches.
- Analyze case studies and academic literature to develop practical guidelines for legal educators working in environments characterized by ideological diversity.

Significance

The research contributes to advancing legal education by exploring simulation as a powerful tool for educational transformation. It establishes simulation as an essential pedagogical instrument that goes beyond serving as a supplemental teaching method, effectively reducing resistance and fostering human rights awareness within legal education.

Amid the growing challenges to rights discourse across both the Global South and the Global North, understanding value-sensitive approaches to teaching human rights has become increasingly important. This study offers practical guidelines to assist educators, curriculum designers, and academic institutions in preparing future lawyers who integrate critical thinking, empathy, and informed practice into their professional development.

LITERATURE REVIEW

Teaching Human Rights: Normative and Pedagogical Challenges

The educational approach to human rights within legal studies often relies on a shared moral framework that prioritizes universal principles, individual autonomy, and protection from state interference. Marie-Bénédicte Dembour (2010, 2–5) presents a typology of human rights schools of thought, demonstrating that learners and legal systems do not necessarily interpret human rights through a "natural school" perspective. Several educational frameworks instead base their approaches on protest activism, discourse analysis, or deliberative political processes (Dembour 2010, 15–19). These diverse perspectives on human rights create challenges for educational settings seeking to integrate human rights norms effectively.

According to Jeremy Waldron, the liberal assumptions embedded in many human rights curricula risk excluding students whose beliefs are rooted in communitarian or religious traditions (Christiano 2000, 516–517). This challenge becomes even more pronounced when students from non-Western backgrounds or multicultural contexts question the moral foundations and legal authority of international human rights law.

Experiential Learning in Legal Education

Active learning methods have become the dominant approach in contemporary legal education. The pedagogical transformation of legal studies relies heavily on Kolb's experiential learning theory (Kolb 1984, 21–26), which explains how knowledge develops through four interconnected stages: concrete experience, reflective observation, abstract conceptualization, and active experimentation (Kolb 1984, 31, 34). Within this framework, simulations such as moot courts and roleplay offer students impactful experiential learning environments.

In addition, Schön's model of the "reflective practitioner" emphasizes that legal education should cultivate students' capacity for reflection rather than focus solely on content delivery (Schön 1983, 334). Through moot court experiences, students engage directly with human rights norms while confronting the complex realities and ethical challenges of legal advocacy.

To further strengthen the theoretical foundation of this research, the discussion on experiential learning can be expanded to include Paulo Freire's concept of critical pedagogy, which frames education as a dialogic process in which learners critically engage with systems of oppression and develop social justice awareness (Freire 1970). Similarly, Jack Mezirow's theory of transformative learning highlights how reflective engagement with disorienting experiences can shift frames of reference and foster moral development (Fleming 2018, 121–124). Together, these perspectives reinforce that reflection within simulation-based teaching promotes both critical awareness and moral transformation.

Roleplay and Moot Courts as Pedagogical Tools

Simulation-based methods are widely recognized as fundamental teaching tools in modern legal education (Jiang 2024, 12–13). Through moot court activities, students participate

in simulated appellate proceedings that strengthen their legal reasoning, research, and oral advocacy skills. Roleplay extends beyond traditional courtroom settings by replicating the dynamics of human rights commissions, legislative bodies, and negotiation tables (Arsenijević 2024, 190).

These methods are particularly effective for teaching "controversial content," as they allow students to experience diverse perspectives rather than merely analyze them (Waters 2016, 175–176). By engaging in structured dramatic performances, students can explore complex moral and legal issues, such as torture, gender discrimination, and religious freedom, within a controlled and reflective learning environment (Romanova and Gudalov 2019, 412).

Empirical research shows that simulation-based learning produces superior cognitive and affective outcomes. Studies indicate that students engaged in simulations retain knowledge more effectively and demonstrate higher levels of classroom engagement compared to those taught through traditional lectures (Abu Issa, Kaddumi, and Alwerikat 2023, 268–269). Moreover, human rights simulations often evoke strong emotional responses, which educators can harness as pedagogical tools to foster empathy, deepen reflection, and enhance moral understanding (Phillips 2013, 1–3).

Simulation in Diverse or Resistant Contexts

Value-diverse environments can particularly benefit from simulation as a protected and inclusive teaching method. In such settings, students are encouraged to demonstrate human rights principles through roleplay activities rather than simply affirm their belief in them (Munin and Efron 2017, 316–317). This approach enables participants to engage with controversial issues without requiring alignment on political or ideological grounds.

Research shows that roleplaying exercises allow students to explore identities and legal frameworks beyond their personal experiences (Munin and Efron 2017, 311–316). Simulations help separate personal opinions from academic discussions, fostering dialogue that accommodates multiple perspectives and avoids the polarization that often characterizes moral or political debates (Romanova and Gudalov 2019, 419).In educational contexts where international human rights are contested, simulation-based learning proves transformative. Moot court exercises demand more than the simple transfer of information; they require the creation of critical spaces where students can examine international norms in relation to their own values (Munin and Efron 2017, 309; Suartha and Martha 2020, 112; Gerber and Castan 2013, 310). Through these experiential settings, students encounter a protected environment in which they can navigate conflicts involving power dynamics, justice, and moral reasoning (Heyns et al. 2008, 17).

Identified Gaps in the Existing Literature

Research strongly supports the educational benefits of simulation in legal training; however, few studies have examined its effectiveness in teaching human rights when students encounter ideological barriers. Most existing scholarship focuses on moot court competitions in liberal-democratic contexts or within clinical legal education, approaches that may be less feasible or effective in more restrictive environments.

This research seeks to bridge this gap by integrating findings from prior studies on simulation-based legal pedagogy and applying them to educational settings where students hold diverse values or resist dominant ideologies. The proposed framework illustrates how simulation activities function not only as instructional tools for developing legal and advocacy skills but also as platforms for reconciling conflicting perspectives within the study of human rights law.

METHODOLOGY

Research Design

This study employs a systematic literature review (SLR) methodology, designed to identify, evaluate, and synthesize all relevant materials. The SLR approach is selected for its rigor, transparency, and replicability, enabling a comprehensive and unbiased analysis of the existing evidence base. The research design is desk-based, relying solely on secondary sources as the main information base.

The study examines published literature, case studies, and pedagogical models to determine effective methods for using roleplay and moot court simulations in teaching human rights law within classrooms characterized by diverse values and resistant ideologies. The SLR process follows a predefined protocol to minimize bias.

Due to the absence of primary research and interviews, the study relies on peer-reviewed journal articles, institutional reports, legal pedagogical sources, and books to develop an evidence-based analysis of simulation-based learning in human rights education.

Data Sources

This research relies on the following primary data sources:

- Scholarly Articles: Peer-reviewed articles that examine the use of simulation in legal education, human rights pedagogy, and experiential learning.
- Books: Foundational texts in legal education theory, human rights law, and simulation-based learning that provide theoretical and methodological grounding for the study.
- Case Studies: Documented examples of simulation-based human rights education implemented in various global contexts, with particular emphasis on politically or culturally resistant environments.
- Dissertations and Theses: Graduate- and doctoral-level research that explores the application of simulation techniques within legal and human rights education.

Literature Review Process

This study employed a systematic and iterative approach to review academic and pedagogical literature that evaluated and synthesized key sources exploring the relationship between human rights education and experiential learning in value-diverse or resistant educational environments. The objective extended beyond merely collecting supporting materials; it aimed to develop an in-depth understanding of simulation-based teaching tools,

including roleplay and moot court activities, in both their theoretical foundations and their practical applications within legal education systems that address human rights norms subject to conflicting interpretations.

The review began with extensive keyword searches across major academic databases, including JSTOR, SSRN, HeinOnline, LexisNexis, and Google Scholar. Search terms combined phrases such as "human rights education," "experiential learning," "legal pedagogy," "moot court," "roleplay," "simulation in education," and "pedagogical resistance" or "value-diverse classrooms." Boolean operators and subject filters were used to identify peer-reviewed articles, scholarly books, and institutional reports published within the past 20 years, with particular emphasis on materials published since 2010 to ensure contemporary relevance.

All sources were evaluated based on their academic rigor, relevance to the research question, and authorial and institutional credibility. Priority was given to publications in high-impact law and education journals, as well as to theoretical frameworks and pedagogical models developed by scholars recognized for their expertise in legal education and grounded in robust academic literature.

This systematic review provided comprehensive coverage by integrating both theoretical perspectives and practical insights consistent with the study's central research focus. The analysis also incorporated Global South perspectives and critiques of Eurocentric approaches to human rights education, thereby addressing the postcolonial and pluralistic dimensions that underpin this research topic.

Data Analysis Approach

This study uses a qualitative analysis approach to combine the results from different sources. Each source was reviewed for its contribution to understanding how simulation-based methods can be applied in resistant or diverse educational contexts.

- Thematic Analysis: The data were grouped into themes based on common threads found in the literature, for instance, the benefits of simulation-based learning, challenges in teaching human rights in resistant contexts, and the pedagogical strategies employed to overcome ideological barriers.
- Comparative Analysis: Data were grouped into themes based on common threads across the literature, such as the advantages of simulation-based learning, the difficulties of teaching human rights in resistant contexts, and the pedagogical approaches used to overcome ideological barriers.
- Case Study Synthesis: Examples of simulation-based human rights education in resistant contexts were analyzed in order to outline best practices and common obstacles.

The result of this process is a conceptual framework that shows how roleplay and moot courts can be used to improve the teaching of human rights across a variety of classrooms, along with practical recommendations for teachers.

Limitations of Methodology

As a desk-based study, this research is constrained by the availability and quality of secondary sources. Although extensive effort was devoted to locating relevant and credible literature, the absence of primary data, such as interviews or direct observations of classroom settings, limits the ability to draw definitive conclusions about the effectiveness of simulation-based strategies within specific learning environments.

Furthermore, the analysis is limited to the existing literature, meaning the recommendations and insights derived may not fully capture the complex dynamics of individual classrooms or students' immediate reactions to simulation-oriented teaching approaches. Future studies incorporating primary data collection methods, such as surveys or interviews with educators and students, could enhance understanding of the impact of simulation-based learning in diverse or ideologically resistant educational contexts.

RESULTS

Overview of Key Findings

The literature review on simulation-based learning in the context of human rights education identifies several key findings that support the use of roleplay and moot court simulations as practical pedagogical tools. These findings highlight the advantages, challenges, and practicalities of using simulations in various or ideologically unyielding environments.

Benefits of Simulation-Based Learning in Human Rights Education

Increased Engagement and Empathy

Simulation-based methods enhance student engagement by enabling participants to adopt diverse perspectives, immerse themselves in complex legal and moral challenges, and foster empathy. Through roleplay, students are encouraged to identify with others, particularly individuals who are marginalized or experience ongoing human rights violations in their daily lives (Sutton and Buis 2023, 1111). Participants in such simulations often report a heightened emotional investment in the subject matter (Munin and Efron 2017, 330). This emotional connection is especially valuable in human rights education, as it moves learning beyond abstract legal principles and encourages students to reflect on the real-world implications of human rights violations.

Practical Skill Development

Moot court simulations play a vital role in helping students develop practical legal skills (Arsenijević 2024, 191). These include legal research, reasoned argumentation, and oral advocacy, all essential competencies for the practice of human rights law (Gerber and Castan 2013, 299). Students who engage in simulation-based learning demonstrate greater proficiency

in understanding legal processes and applying legal theory to real-world situations (Heyns et al. 2008, 17; Munin and Efron 2017, 313; Arsenijević 2024, 12).

Exposure to Diverse Legal and Cultural Perspectives

Simulation-based techniques implemented in value-diverse or ideologically opposed classrooms allow students to engage with a variety of legal systems, cultural norms, and political ideologies (Heyns et al. 2008, 17; Munin and Efron 2017, 316–317). Simulation serves as a "neutralizing" pedagogical tool, offering students the opportunity to explore multiple perspectives without the need to personally adopt or defend them (Asal and Blake 2006, 1–5). This approach is particularly valuable in contexts where human rights law is perceived as foreign, contested, or ideologically sensitive.

Fostering Critical Thinking and Reflection

Simulation-based learning promotes critical thinking by requiring students to evaluate, question, and apply legal norms across diverse scenarios that often involve conflicting interests or values among participants (Heyns et al. 2008, 20). Simulations also create space for students to examine international human rights norms critically and to challenge the assumptions embedded within those frameworks (Heyns et al. 2008, 21). This deeper level of engagement is essential for equipping students with the analytical and reflective skills needed to navigate the complex challenges of human rights practice in real-world contexts.

Challenges in Implementing Simulation-Based Learning

Cultural and Ideological Resistance

The main challenge lies in the presence of cultural and ideological opposition to human rights education in specific contexts. In classrooms that may be hostile or at least skeptical toward human rights norms, simulations can be perceived as an imposition of foreign values. The "liberal presumption" inherent in human rights law may alienate students who embrace communal or religious values that prioritize duties to society or family over individual rights. In such cases, strong resistance to roleplay and moot court simulations is likely.

Difficulty in Ensuring Realistic Engagement

Although simulations offer valuable opportunities for experiential learning, it is not always easy to ensure that students fully engage in the simulation process. Students may focus more on performing their assigned roles rather than deeply reflecting on the underlying human rights issues (Gerber and Castan 2013, 301). Such superficial participation can undermine the simulation's effectiveness as a pedagogical tool.

Facilitator's Role in Guiding Simulations

The success of this type of learning largely depends on the facilitator's ability to guide students through complex scenarios and foster meaningful reflection. Without proper guidance, simulations can easily devolve into superficial roleplaying exercises that fail to achieve genuine educational objectives (Jiang 2024, 14). Effective facilitation requires instructors who are knowledgeable about the legal content and skilled at leading discussions and encouraging critical reflection (Jiang 2024, 14).

Logistical and Resource Constraints

Another practical challenge in using simulations is the availability of resources. Organizing moot court simulations and roleplay exercises typically requires substantial time, effort, and financial support (Heyns et al. 2008, 37). These activities may not be feasible in resource-constrained educational settings or in contexts where access to legal materials and institutional support is limited.

Impact on Student Attitudes and Perspectives

Moot court exercises can be effectively integrated into the legal curriculum to enhance the quality of education. Research conducted at the Applied Science Private University in Jordan demonstrated that these exercises play a significant role in strengthening students' skills in legal reasoning and advocacy (Abu Issa et al. 2023, 268–269).

Moreover, participation in moot court activities improves students' public speaking abilities and boosts their confidence (Ringel 2004, 464). Arguing before judges and peers in a simulated courtroom setting enables students to develop composure and articulate their thoughts effectively under pressure. Such experiences are invaluable in preparing students for the realities of legal practice. One study found that students reported improved public speaking and critical thinking skills, as well as greater confidence in presenting legal arguments (Kammerer 2018, 192–193).

The collaborative nature of moot court also fosters teamwork and interpersonal skills. Students must work closely with teammates to construct coherent arguments and develop sound strategies, mirroring the cooperative dynamics of professional legal practice (Kammerer 2018, 192–193). This process helps them cultivate communication and coordination skills essential to success in the legal profession.

At Karlstad University in Sweden, roleplay exercises have been introduced into tax law courses to prepare students for professional practice, with particular emphasis on teamwork and communication effectiveness in legal contexts (Karlstad University 2019).

Moreover, moot court exercises expose students to courtroom procedures and professional etiquette, providing them with a realistic understanding of legal proceedings (Gerber and Castan 2013, 307–309). Through simulations of real-life legal situations, students learn the roles and responsibilities of different courtroom participants, the application of procedural rules, and the nuances of advocacy as a professional legal practice (Kammerer 2018,

192–193). Such practical exposure is essential in helping students transition from academic study to professional legal careers.

The European Journal of Law and Technology reported on the effective use of virtual law cases in teaching contract law and found that students perceived these simulations as both realistic and valuable for deepening their understanding (Fors and Skoglund 2013).

Students who participate in moot court frequently report greater interest in legal studies and a deeper comprehension of the complexities of the legal system (Kammerer 2018, 192–193). Consequently, this experiential learning method plays a vital role in shaping students' professional identity and fostering their sense of vocation toward the legal profession. Research further indicates that roleplay simulations in legal education enhance not only students' understanding of legal concepts but also their professional skills and ethical awareness (Munin and Efron 2017, 326–328; Jiang 2024, 14–15).

Synthesis of Key Case Studies

The integration of moot court and simulation-based learning into legal education has been extensively documented through various case studies demonstrating their positive impact on student development and the overall quality of legal training.

A notable example is the moot court program at the Applied Science Private University in Jordan (Abu Issa et al. 2023, 269–270). Between 2003 and 2022, the Faculty of Law organized a series of moot court exercises in which students participated in simulated legal proceedings. A survey of 70 graduates revealed substantial improvements in their legal competencies, particularly in reasoning and advocacy. The study concluded that incorporating moot courts into the curriculum significantly enhances the quality of legal education and recommended that such exercises become a mandatory component of every law student's training (Abu Issa et al. 2023, 268–269).

In the United Kingdom, Canterbury Christ Church University conducted research on the effectiveness of roleplay simulations in undergraduate legal education (Waters 2016, 173–174). The study, conducted in a mediation module, involved students participating in structured roleplay exercises. The findings indicated that these simulations significantly improved students' motivation, confidence, and understanding of legal concepts. Participants reported that the activities provided a richer learning experience and offered valuable practical preparation for professional legal practice (Waters 2016, 178–185).

Another case study from the United States, published in The Journal of Legal Education, examined the influence of moot court participation on students' perceptions of professional legal practice (Gaubatz 1981, 105–106). The research found that structured moot court competitions increased students' confidence in their ability to represent clients effectively. Moreover, the moot court experience not only refined their technical legal skills but also fostered moral judgment and critical reflection regarding their future roles as legal professionals (Gaubatz 1981, 103–104). These findings align with broader evidence suggesting that simulation-based approaches help students internalize the ethical responsibilities and professional identity central to legal practice.

Comparative Analysis on the Impact of Simulation-Based Learning

Simulation-based learning models, particularly moot court, have proven to be highly effective tools for teaching human rights in contexts where students and communities hold diverse or even opposing values. This pedagogical approach extends beyond lectures and textbooks by immersing students in real-life legal scenarios, strengthening their practical skills, and fostering collaboration across cultural and ideological divides.

For example, the African Human Rights Moot Court provides students with firsthand experience in both regional and international human rights systems, often requiring them to reconcile conflicting legal standards (Gerber and Castan 2013, 303). It helps participants develop key professional skills such as legal research, public speaking, time management, and teamwork (Heyns, Taku, and Viljoen 2008, 20–22). Similarly, the Inter-American Human Rights Moot Court adds the complexity of multilingual legal arguments, challenging students to operate within different linguistic and legal frameworks (Gerber and Castan 2013, 305).In Indonesia, legal education frequently integrates moot courts with real-life case files, providing students with both theoretical depth and procedural insight into the practice of law (Suartha and Martha 2020, 105). The ZAC roleplay model adopts a "pseudo-real" approach, enabling students from diverse, ideologically opposed communities to engage in discussions on sensitive issues within a safe, structured environment (Munin and Efron 2017, 316–317). In Brazil, moot court simulations combined with team-based and challenge-based learning modules (TBL/CBL) encourage students to collaborate in stable but diverse groups, addressing socially relevant legal problems through research-driven analysis (Santana, Araújo, Moresi, Caliman, and Costa-Lobo 2019, 9008–9009).

At the University of Niš, internal competitions range from simulations of the European Court of Human Rights (ECtHR) to anti-discrimination hearings, exposing students to a variety of legal systems and procedural frameworks (Arsenijević 2024, 188–189). The Applied Science Private University in Jordan has evolved its teaching model from scripted mock trials to fully competitive moot court trials featuring self-prepared arguments and live adjudications. A survey revealed that 96% of alumni reported significant benefits from this transformation (Abu Issa et al. 2023, 266–268). Meanwhile, at Sanda University in China, moot court serves as a student-centered, interactive, and ability-driven learning module that integrates legal knowledge, advocacy skills, and professional ethics into a cohesive process (Jiang 2024, 12–13).

Across these examples, the educational goals and methods vary by region: African moot courts train students to synthesize complex factual and legal issues within a single argument (Heyns et al. 2008, 34–35); Indonesian moots teach students to analyze evidence using authentic judgments (Suartha and Martha 2020, 105); the ZAC model combines international law with negotiation-style simulations (Munin and Efron 2017, 327–328); Brazilian TBL moots emphasize the use of advanced research tools for case preparation (Santana et al. 2019, 9009–9010); Niš focuses on written and oral advocacy aligned with procedural standards (Arsenijević 2024, 189–190); and Sanda University emphasizes skill cultivation through integrated, performance-based evaluation (Jiang 2024, 12–14).

Importantly, these programs also promote cross-cultural dialogue and intercultural understanding. Both the African and Inter-American moot court competitions are conducted in multilingual environments that require students to adapt to varying legal traditions and systems

(Gerber and Castan 2013, 303, 305). The African moots, in particular, unite participants from diverse linguistic and cultural backgrounds, encouraging collaboration across differences (Heyns et al. 2008, 24–25). In Indonesia, moot competitions further bridge legal education with social realities, prompting students to frame their arguments in the context of contemporary societal issues (Suartha and Martha 2020, 107).

The ZAC model, on the other hand, provides safe and structured debate spaces for students from conflicting cultural or ideological backgrounds, encouraging respectful dialogue and critical engagement (Munin and Efron 2017, 315–316, 330). At the University of Niš, participants gain procedural fluency across multiple legal regimes, developing adaptability and an understanding of comparative legal systems (Arsenijević 2024, 195–198).

Motivational factors for student participation in these simulation-based programs vary across contexts. In the African Human Rights Moot Court, motivation often arises from peer recognition and the pursuit of team success (Heyns et al. 2008, 36–37). In Indonesia, career readiness serves as the primary incentive, as students view moot court participation as direct preparation for professional practice (Suartha and Martha 2020, 106). In Brazil, students are drawn to the gamified, challenge-based structure that transforms legal research into an engaging and competitive learning experience (Santana et al. 2019, 9010–9011). At Niš, the prestige of the competition—enhanced by the involvement of high-profile judges and public final rounds—drives strong student engagement (Arsenijević 2024, 197–198). Similarly, alumni of the Applied Science Private University in Jordan have advocated making moot court a core course due to its clear practical benefits and impact on employability (Abu Issa et al. 2023, 269).

These methods also prove effective in contexts where jurisprudence is underdeveloped or legal issues are politically sensitive. The African Human Rights Moot Court presents students with realistic cases that lack established national precedents, prompting them to engage in creative legal reasoning (Heyns et al. 2008, 301). The ZAC model employs fictionalized versions of real-world disputes, allowing participants to address controversial themes without referencing actual parties or governments (Munin and Efron 2017, 320–322). In Brazil, moot court participants are encouraged to select their own socially relevant issues, but must present them through a neutral, analytically balanced perspective (Santana et al. 2019, 9009–9010).

The long-term impacts of these moot court programs are substantial and far-reaching. The African Moot Court has fostered a continent-wide network of human rights–oriented legal professionals and academics (Heyns et al. 2008, 33). Alumni of the Inter-American Human Rights Moot Court demonstrate strong proficiency in multinational litigation and cross-jurisdictional reasoning (Gerber and Castan 2013, 307). Graduates of Indonesian moot courts emerge as adaptable, socially engaged practitioners with a deep awareness of community-centered legal challenges (Suartha and Martha 2020, 110). Likewise, participants in Brazil's TBL-based moot courts consistently develop sustainable research and writing competencies that serve as foundational skills for their future legal careers (Santana et al. 2019, 9013–9014).

DISCUSSION

Interpretation of Key Findings

The findings of this study suggest that simulation-based learning, particularly roleplay and moot courts, is an effective pedagogical intervention in human rights education. However, its effectiveness is highly context-dependent and largely depends on the facilitator's skill. When applied successfully, this approach transcends the traditional lecture model by immersing students in experiential situations that demand active engagement with legal concepts, ethical dilemmas, and divergent perspectives (Gerber and Castan 2013, 301).

Roleplay exercises require students to embody marginalized or opposing characters, thereby challenging preconceptions and fostering more ethical reflection (Sutton and Buis 2023, 1107). However, this power introduces a paradox: the emotional intensity of simulations can either deepen learning or provoke resistance as students reconcile new experiences with preexisting beliefs. Case examples, such as the Jordanian moot court program, demonstrate significant skill development (Abu Issa et al. 2023, 268–269). However, they also raise a critical question: can simulations truly dismantle ideological resistance, or do they merely train students to articulate human rights arguments without internalizing their moral foundations?

The facilitator's role is therefore crucial. Drawing on Freirean principles, the facilitator should not act as a mere transmitter of knowledge but as a critical co-investigator who fosters a dialogic environment in which students question oppressive structures embedded in law and society (Freire 1970, 80). Effective simulations must extend beyond procedural guidance; they require skilled moderators who can manage contentious debates, encourage authentic engagement, and guide reflective discussions that promote systemic critique (Ringel 2004, 461–462). This process can catalyze what Mezirow terms a "transformative learning" experience, where deeply held assumptions are challenged and reexamined, leading to a more inclusive and self-aware worldview (Fleming 2018, 121–124). Without this critical reflection, simulations risk devolving into empty exercises, which Schön criticizes as "technical rationality" devoid of transformation (Schön 1983, 49–76). For instance, while moot courts may excel at teaching appellate advocacy, if detached from discussions about power relations within legal systems, they risk turning human rights practice into a purely rhetorical exercise.

The study's limitations, stemming primarily from its reliance on secondary data, raise questions about whether simulations can effectively shift attitudes in deeply resistant contexts. Although the literature suggests that roleplay can "neutralize" ideological conflict by depersonalizing arguments (Munin and Efron 2017, 317), this notion invites a provocative counterpoint. In cultures where communal or religious values prioritize obligations over individual rights, simulations may unintentionally reinforce Western legal paradigms unless carefully adapted to local epistemologies.

Ultimately, the results underscore the tension between simulation as a pedagogical tool and as a form of political engagement. Their transformative potential is most evident when designed as "critical simulations," spaces where students are not only encouraged to interrogate legal doctrine but also to examine the structural inequities underlying rights violations (Gerber and Castan 2013, 301–302). To achieve this, educators must move beyond the technical limitations of courtroom procedures and instead design simulations that help students

recognize the gap between human rights ideals and their practical realization. Future research should examine whether these methods can truly subvert, rather than merely address, the ideological resistance they seek to confront.

Theoretical Implications

This research provides important theoretical contributions to the understanding of simulation-based learning in legal and human rights education. The findings indicate that this teaching method profoundly influences how students comprehend human rights principles by transforming abstract concepts into concrete, debatable experiences (Kolb 1984, 30–31, 33–34).

Essentially, these approaches create a safe space in which students can explore and test different viewpoints while temporarily setting aside their personal beliefs (Arsenijević 2024, 191). However, this study also uncovers a deeper tension: simulations reveal not only the strengths but also the limitations of the universal human rights framework when confronted with diverse cultural perspectives. Theoretically, this presents a challenge to traditional models of legal education. Simulations do more than teach human rights law—they demonstrate how such laws function in practice, exposing their gaps, contradictions, and intersections with real-world contexts (Schön 1983, 49–76). This experiential approach enables students to grasp the complex interrelationship among legal principles, power dynamics, and implementation processes (Abu Issa et al. 2023, 267–269).

The study suggests several directions for further theoretical development. Most urgently, there is a need for frameworks that explain how simulation-based learning operates in resistant environments. Future research could examine whether these strategies can genuinely transform ideological opposition or merely make existing divisions more visible. In either case, they provide valuable insights into the teaching of human rights in an increasingly pluralistic world.

Practical Implications for Educators

The findings of this study have several important practical implications for educators implementing simulation-based learning in human rights and legal education. To begin with, simulations should be intentionally integrated into the curriculum as progressive learning experiences rather than treated as isolated activities. Starting with simpler roleplays on less sensitive topics allows students to build foundational skills before progressing to more complex moot court exercises involving culturally sensitive human rights cases (Gerber and Castan 2012, 301). This scaffolding approach helps students develop confidence as they gradually engage with more challenging material.

Educators should clearly articulate how each simulation aligns with specific learning objectives, ensuring that it advances not only legal knowledge but also higher-order skills such as ethical reasoning, perspective-taking, and professional advocacy. The Jordanian case study illustrates the particular benefit of making such exercises compulsory rather than optional, as mandatory participation ensures that all students fully engage in the experiential learning process (Abu Issa et al. 2023, 268–270).

Effective facilitation is equally essential for successful implementation. Educators must move beyond merely monitoring procedural aspects and instead guide the learning experience

in a participatory and skillful manner. This involves setting clear ground rules that foster a safe environment for discussing sensitive issues, asking strategic questions that provoke deeper thinking, and recognizing moments when students may be engaging superficially so they can be redirected toward more meaningful reflection. The research highlights the importance of facilitators maintaining a balanced dual role as both content experts and process guides, providing factual structure while remaining open to diverse perspectives (Schön 1983, 49–76). This delicate balance ensures that simulations do not devolve into overly rigid doctrinal exercises or unstructured debates lacking educational value. However, contextual adaptation emerges as a second critical consideration, especially in contexts where human rights concepts are resisted. There are many strategies that educators can use to increase relevance and reduce defensiveness, including cultural bridging, perspective rotation and gradual exposure (Arsenijević 2024, 14). A UK study on mediation modules demonstrates the effectiveness of employing locally relevant case materials in student engagement and reducing ideological resistance considerably (Waters 2016, 178). Creating region-specific simulation banks that incorporate both universal principles and local tensions may help educators adapt their content to their own classroom contexts.

Simulation-based learning also necessitates equal innovation in assessment methods. Traditional grading rubrics do not usually reflect the full range of skills developed through these exercises. Formative feedback needs to cover both substantive mastery and process learning; students must consider what changes they could make to arguments for different cultural settings or audiences. This overall assessment approach better reflects what sophisticated learning outcomes simulations aim to achieve.

Resource constraints are indeed a challenge, but not by any means a barrier to implementation. There are some practical solutions, such as using technology via recorded roleplay or a virtual moot court, collaborative efforts with local legal entities for reality-based support, and simulation kits that are versatile, with a facilitator guide that provides detailed instructions. The Swedish case study of low-cost tax law roleplays shows that well-designed roleplays do not require a high level of resources to be effective (Karlstad University 2019). Teachers in resource-scarce environments should aim to maximize quality rather than quantity when building just a few simulations that have maximum impact and address the most important learning objectives.

A phased implementation approach can support the successful adoption of simulation methods. Starting with a needs assessment to identify students' backgrounds and points of resistance helps create a tailored design. If pilot testing among willing student volunteers is successful, full integration of the curriculum can proceed. Continued monitoring of skill development promotes the method's value and supports continued improvement. This evidence-based implementation strategy turns human rights education from abstract talk into a lived experience, preparing students to navigate legal systems while being aware of their cultural contingencies and constraints. The end goal is not ideological conversion, but the creation of legal professionals able to critically engage with rights implementation across varied contexts, ready to confront the promise and perils of human rights work in a world that is becoming increasingly complex.

CONCLUSION

The study shows that a transformational approach to human rights education can be achieved through simulation-based learning in value-diverse or resistant settings. Such techniques help students bridge the gap between abstract legal principles and practical application (Kolb 1984, 37–38). This form of teaching leads to stronger cognitive and affective learning outcomes, including improved legal reasoning, empathy, and critical reflection, compared with lecture-based methods (Sutton & Buis 2023, 1098). One major strength of simulations lies in their capacity to provide a neutral environment for exploring controversial issues. Students use roleplay or moot courts to engage with human rights concepts without being required to explicitly endorse them, thereby reducing ideological resistance and fostering open discussion (Gerber and Castan 2012, 309; Heyns et al. 2008, 23). This is particularly useful in classrooms where human rights norms are viewed as foreign or culturally incompatible.

Nevertheless, the study also highlights significant challenges. Cultural and ideological resistance can undermine the effectiveness of simulations unless they are carefully adapted to the local context. Moreover, skilled facilitation is essential for the successful use of these methods. Without proper guidance, simulations risk becoming superficial exercises that fail to provoke meaningful reflection or systemic critique (Schön 1983, 205–235).

Ultimately, the research emphasizes that simulations serve dual purposes: as educational tools for skill development and as platforms for engaging with the limitations of human rights paradigms. The study concludes that simulation-based learning not only enhances engagement but also has the potential to transform learners' moral reasoning and empathy, consistent with transformative learning theory. Future research should empirically test these findings through controlled classroom studies comparing simulation-based modules with traditional lectures over time to measure attitudinal and ethical change. Additionally, empirical anchoring, including meta-analyses of existing data, could substantiate claims about simulation efficacy across cultural contexts. Incorporating diverse case studies from non-Western legal education systems would further address the decolonization dimension of human rights teaching. Although simulations are not a cure-all for intellectual resistance, their ability to foster empathy, adaptability, and reflective practice makes them invaluable in preparing future legal professionals to navigate complex and contested rights landscapes.

Simulation-based learning has strong potential to advance human rights education, especially in contexts where traditional approaches may face resistance. It promotes active learning and critical thinking by immersing students in real-world legal scenarios, both of which are essential for developing a deeper understanding of human rights law. For educators, ensuring that simulations are culturally sensitive and legally relevant is a key priority. Teachers should also pursue training opportunities to help them effectively guide students through simulations and expand their pedagogical range.

Future research should further explore the theoretical applications of simulation-based learning in specific educational contexts, particularly where human rights education faces substantial challenges. Beyond theoretical exploration, empirical validation remains crucial. Structured classroom observations, educator interviews, and student reflections can provide measurable evidence of transformation in resistant environments. Primary research through case

studies and interviews with educators and learners will offer valuable insights into the effectiveness and limitations of simulation-based practices in real-world settings.

Finally, this study suggests that, despite its limitations, simulation-based learning can play a pivotal role in reshaping how human rights are taught, enhancing both theoretical understanding and practical skills vital to future human rights advocates and legal professionals.

CONTRIBUTOR

The author contributed solely to the intellectual discourse that forms the foundation of this article, as well as its writing and editing, and assumes full responsibility for its content and interpretation.

COMPLIANCE WITH ETHICAL STANDARDS

Acknowledgments:
Not applicable.

Funding:
Not applicable.

AI Declaration:
The authors acknowledge the use of AI tools—specifically ChatGPT-5—to assist in translating and enhancing the clarity and quality of the English language in this manuscript. These AI tools were employed solely for language refinement and were not involved in the conceptualization, analysis, or development of the scientific content. The authors assume full responsibility for the manuscript's originality, accuracy, validity, and integrity.

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Not applicable.

Disclosure statement:
No potential conflict of interest was reported by the author/s.

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Journal of Legal and Political Education · Volume 2 · Number 2 · 2025 · eISSN: 2955-2389
Published online by the Institute for Research and European Studies at www.iies.mk/jlpe

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(*) Corresponding author
Peer review method: Double-blind
Research article
DOI: https://doi.org/10.47305/jlpe.2025.1953
Received: 20.08.2025 • Accepted after revision: 10.12.2025 • Published: 19.12.2025
Pages: 46-64

Turkic Perspectives in Teaching International Environmental Law: Toward Pluralistic Legal Education

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Abstract: *This paper explores the teaching of international environmental law from Turkic perspectives, offering a novel approach that integrates the historical, cultural, and institutional experiences of the Turkic world into the discipline. Against the backdrop of a weakening multilateral order and criticism of the UN, it argues that regional perspectives can strengthen the universality and legitimacy of international environmental law. Rather than merely examining how international environmental law is received in Turkic states, the study asks whether a distinct "Turkic international environmental law" exists. Drawing on the Organization of Turkic States' frameworks and initiatives in environmental protection, it examines how regional experiences can inform both the substance and pedagogy of the field. Teaching from Turkic perspectives emerges as both a pedagogical innovation and a normative contribution to a more inclusive global legal system.*

Keywords: *International Environmental Law; Organization of Turkic States; Pedagogy; Normative Innovation; Global Legal System*

INTRODUCTION

In 2025, the United Nations (UN), which occupies a central position not only within the system of intergovernmental organizations but also as a key actor in international political dialogue, will mark its 80th anniversary. Established in the aftermath of the Second World War, this international institution was entrusted with the mission of saving future generations from the scourge of war, reaffirming faith in fundamental human rights, promoting social progress, and improving living standards in greater freedom. Simultaneously, the primary responsibility for maintaining international peace and security was assigned to the UN's principal organ, the Security Council. As reflected in the purposes enshrined in the 1945 UN Charter, the peace and security of humanity, together with the protection of human rights intrinsically linked to them, are of paramount importance. This development marked the beginning of a new era in the history of international law, often referred to as Charter-based international law.

Today, international law faces a profound crisis, mainly due to the absence of effective enforcement mechanisms and compounded by contemporary challenges such as global power shifts, political polarization, the rise of nationalism, state sanctions against international institutions (e.g., U.S. sanctions against the International Criminal Court), climate change, emerging technologies, and the increasing influence of non-state actors. Moreover, powerful states often evade accountability while weaker ones are disproportionately targeted. The refusal of states to ratify core international treaties and the lack of robust enforcement mechanisms in human rights law further underscore the system's shortcomings.

International law is designed to be universal, which is where faith in multilateralism becomes essential. However, the UN Security Council, the main body responsible for international peace and security, has been paralyzed by geopolitical rivalries among its five permanent members, each with veto power. Calls to reform the UN, particularly the Security Council, have largely gone unanswered, leaving the system as a relic of the past, disconnected from the realities of the modern world order (Mustafayeva 2017, 187).

This situation has led to widespread disappointment and a loss of faith in the institution meant to safeguard the world from chaos and impunity for international crimes. As Diane Desierto recently noted in the European Journal of International Law, "the pushback against the structures, institutions, and sources of international law as we know it is all too real on a daily basis," and we now live in "times of deliberate abandonment not just of what ought to have been largely settled norms of international law since 1945, but also an outright repudiation by political majorities (and the leaders they enable) of the norms and institutions that have provided relative stability and forestalled World War III for the last eighty years" (Desierto 2025).

There is a clear retreat, or even an outright collapse, of multilateralism, accompanied by unilateral actions by states, including unauthorized uses of military force in violation of international law. As a result, international institutions, including the United Nations, are experiencing a significant erosion of authority and relevance.

What kind of world system do we need? "We need a multilateral system that is inclusive, interconnected, and effective," one that, as UN Secretary-General António Guterres emphasizes, reflects a renewed vision for multilateralism (United Nations n.d.). Such a system must acknowledge the realities of an increasingly interdependent world and be capable of addressing global challenges through collective action, mutual respect, and a firm commitment to international law.

This vision formed the core of the Pact for the Future, adopted by world leaders at the Summit of the Future on September 24, 2024. The historic document "reaffirms global commitment to the United Nations, the international system, and the principles of international law," while emphasizing the urgent need to strengthen global cooperation to address emerging challenges. Its primary goal is to ensure that international institutions are equipped to operate effectively in "a world vastly different from the one in which they were created" (United Nations 2024).

As the world has changed dramatically since the founding of the United Nations, there is a growing consensus that its current configuration no longer reflects contemporary geopolitical, economic, and demographic realities. Reforming the UN, particularly its Security Council, has become increasingly urgent. This includes expanding permanent representation to ensure that all regions have a meaningful voice in decision-making processes.

Such a transformation would not only enhance the legitimacy and credibility of the UN system but also contribute to the democratization of global governance. More inclusive structures would allow broader participation in shaping international law, which Western legal and philosophical traditions have predominantly shaped.

For too long, the Western approach has dominated both the academic and practical discourse on international law. While international law aspires to universality, it is increasingly evident that specific historical, cultural, and geopolitical realities shape its foundations. This is

particularly apparent in how international law is taught and understood across different regions of the world.

In this context, a key question emerges: Is it time to reconsider international law through the lens of newly emerging global actors, such as the Turkic states? This inquiry is closely linked to the activities of the Organization of Turkic States (OTS), a relatively new subject of international law that has already established itself as an effective platform for regional dialogue. Such a perspective is especially relevant in an era when confidence in multilateralism and international institutions is waning.

The primary objective of this paper is to introduce a distinctive perspective in international law, and more specifically in international environmental law, grounded in the historical, cultural, and geopolitical realities of the Turkic nations. The aim is to address a significant gap in the academic landscape. While alternative schools of thought, such as TWAIL (Third World Approaches to International Law), post-socialist and Eastern European perspectives, and frameworks from China, Latin America, and Africa, have already gained recognition, Turkic perspectives remain largely underexplored in global legal discourse.

Accordingly, the research question of this study is not merely how international law, or specifically international environmental law, is received in the Turkic states, but whether there exists a distinct framework that could be described as "Turkic international environmental law."

LITERATURE REVIEW

As Hernandez notes, the Peace of Westphalia is traditionally regarded as the starting point of the modern state-centric system of international law, establishing one of the first contemporary frameworks for a multilateral legal order. This European state-system "then spread around the world through European colonialism, and its basic foundations remain relevant today" (Hernandez 2020, 5).

Critiques of international law as a product of Western civilization often focus on the US-led approach to the global order, in which a superpower effectively dictates the rules to the international community as a whole. Indeed, "the era of US-led multilateralism emerged first as idealistic hegemony led by Woodrow Wilson and secondly as an institutional and power issue" (Telò 2023, 45). However, the future of international law requires a more pluralistic and context-sensitive approach, one that embraces the multiplicity of voices and experiences shaping our increasingly fragmented world.

Against this backdrop, this paper draws on academic trends that highlight the importance of regional perspectives, particularly TWAIL (Third World Approaches to International Law), which emerged during the decolonization movements in Africa, Asia, and Latin America in the 1960s. As newly independent states entered the international system, they challenged the Eurocentric foundations of international law, arguing that it had historically served the interests of colonial powers. TWAIL scholars and practitioners across generations focused on the empire as the central concern (Anghie 2023, 26), seeking to expose the structural inequalities embedded in international legal norms and institutions (Acharya 2016, 342). They advocated for a more equitable and inclusive legal order that reflects the voices, experiences, and aspirations of formerly colonized nations.

The aim of this study is not to propose a revolutionary overhaul of international law, but rather to offer an alternative perspective, one that complements the existing system of international law as a legal discipline, rooted in the experiences and realities of the Turkic region.

Antony Anghie has noted that international law is rapidly expanding and fragmenting into specialized fields, and TWAIL scholars examine how these regimes affect the Global South and their potential to advance its interests. Research by TWAIL scholars has explored the impact of investment (Sornarajah 2015, 427), trade (Gonzalez 2002, 43), intellectual property (Aoki 2009, 77), human rights (Chimni 1998, 350), and international criminal law (Kiyani 2015, 109) on Third World populations. Their work also highlights how activists and regional courts, such as those in Africa and Latin America (Shelton 333, n.d.), have produced innovative jurisprudence beyond the traditional centers of international law (Anghie 1996, 33–34).

Teaching international law, and in particular international environmental law, from an Asian perspective has also attracted significant scholarly interest. To explore this subject from both regional perspectives and historical development, a modern approach is particularly valuable. For this reason, this paper presents the Asian approach to teaching international environmental law through the framework of the Teaching and Researching International Law in Asia (TRILA) Programme, established by the Centre for International Law at the National University of Singapore. As part of this programme, a series of webinars was organized, which the author of this paper attended. A key aspect of these sessions is the distinctive Asian narrative embedded in the syllabus.

Stellina Jolly, from the Faculty of Legal Studies at South Asian University (India), emphasized the importance of recognizing multiple narratives in teaching international environmental law. She noted that in Asia, the challenge lies in balancing sustainability with economic growth and development, and highlighted the need to harmonize global legal norms with regional priorities, particularly by addressing the perspectives and legitimacy concerns of the Global South in climate governance. In her teaching, she examines not only international frameworks such as the UNFCCC, the Kyoto Protocol, and the Paris Agreement but also the role and inclusion of Asian jurisdictions within these processes (TRILA Programme 2025).

Similarly, Gregorio Rafael Bueta, from the School of Law at Ateneo de Manila University (Philippines), stressed the interdisciplinary and evolving nature of international environmental law, noting its intersections with human rights, humanitarian law, indigenous rights, energy, trade, and waste management. At his university, environmental and climate law is taught as a single, broad subject, presenting the additional challenge of covering its complex, interconnected scope (TRILA Programme 2025).

Jolene Lin, Associate Professor at the Faculty of Law, National University of Singapore, emphasized "the importance of identifying the audience and teaching context." At NUS, international environmental law is offered as an elective course, similar to other environmental law modules, a practice also common across universities in the Turkic states. Likewise, as in many universities across the Turkic region, "there are no dedicated undergraduate or postgraduate courses in international environmental law," and prior knowledge of international law is not a prerequisite for enrollment. Lin's thirteen-week syllabus for Transnational Environmental Law covers a wide range of contemporary topics, including the role of non-state actors, corporate liability, marine plastics pollution, climate change litigation, and transnational

environmental crimes, complemented by practical components such as student presentations and field visits (TRILA Programme 2025).

Most professors involved in the project also noted the challenge of relying on Western-centric textbooks, leading them to combine diverse sources, including regional articles, case law, podcasts, and guest lectures, to incorporate local perspectives and practical insights that enrich theoretical discussions.

Drawing in part on these traditions, this article seeks to explore not only how international environmental law can be applied by the peoples of the Turkic states, but also how it can be taught from a regional perspective, primarily within the normative and legal framework developed under the Organization of Turkic States (OTS).

While international law has been examined from numerous thematic, regional, and national perspectives, scholarship addressing it specifically from Turkic perspectives remains scarce. This study aims to fill that gap by complementing the existing body of literature with an inquiry into how international law, particularly international environmental law, can be approached through the lens of the Turkic region.

METHODOLOGY

This article forms part of the research conducted by the author within the framework of the project "Teaching International Law: A Turkic Perspective", funded by the Turkic Academy[1] research grant (Turkic Academy 2025). The study employs doctrinal legal analysis, comparative analysis, and case law review. Its findings are further informed and discussed through webinars and roundtables, with active participation from the project's authors and contributors.

It is worth noting that this project seeks to explore how the historical, philosophical, and institutional experiences of Turkic states can enrich the global understanding of international law, while also proposing an innovative pedagogy that integrates non-Western perspectives into the international law curriculum. This initiative encompasses not only historical case studies and regional legal practices but also the emergence of Turkic regionalism as a new force in multilateralism. Through workshops, curriculum development, and scholarly exchange, the project aims to present an inclusive, pluralist, and dynamic vision of international legal education.

Regarding the implementation of this vision, several questions naturally arise: What exactly do international lawyers from the Turkic world propose? A new methodology? Or perhaps an original scholarly approach with the potential to develop into an independent school of thought grounded in shared cultural values and legal heritage? It is important to stress that this is not an attempt to suggest that current international law is flawed. Instead, it seeks to address the gap between what international law "promises and what it delivers" (Dembour 2022, 44).

Against this backdrop, the paper conducts a comprehensive review of academic literature, reports, legal documents, and diplomatic initiatives within the Organization of Turkic

[1] The Turkic Academy is an international organization established under the aegis of the Organization of Turkic States, dedicated to facilitating and supporting scientific and educational cooperation among Turkic states. For more information, see: https://turkicacademy.org/en

States in the field of environmental protection and climate change. Using doctrinal and comparative legal analysis, the study examines the existing global and regional legal frameworks governing these issues. It concludes with proposals for developing a more pluralistic syllabus for teaching international environmental law from a Turkic perspective.

STRUCTURE, PRINCIPLES, AND EMERGING JURISPRUDENCE IN INTERNATIONAL ENVIRONMENTAL LAW

International environmental law has gradually evolved into a fragmented and unsystematic legal regime, comprising diverse legal developments such as judicial decisions, unilateral state practices, and treaty-making processes, all of which have contributed to the emergence of fundamental norms and principles in environmental protection (Hernandez 2019, 496). The evolution of this specialized regime within international law has been significantly shaped by multilateral diplomacy, with landmark conferences such as Stockholm (1972) and Rio de Janeiro (1992) establishing key norms and principles of international environmental law. Although non-binding, the provisions of the Stockholm Declaration (United Nations 1972) and the Rio Declaration (United Nations 1992) have exerted considerable influence and have been further codified in international environmental treaties.

A notable feature of international environmental treaties is the "framework approach" (Redgwell 2000, 89–107). Unlike classical international treaties, framework treaties rely on general principles and institutional arrangements, making their implementation more dynamic and flexible. Typically, such treaties are accompanied by protocols or annexes that provide more specific standards of protection and, in some cases, legally binding provisions. A prominent example is the 1992 United Nations Framework Convention on Climate Change (UNFCCC), which serves as the foundation for subsequent agreements, including the 1997 Kyoto Protocol and the 2015 Paris Agreement (Hernandez 2019, 502).

Another distinct characteristic of international environmental treaties, closely tied to multilateral diplomacy, is their non-reciprocal nature. This refers to situations in which the obligations of one state party are not directly contingent upon or equivalent to the obligations of other parties. In the context of environmental treaties, this non-reciprocity is reflected in the principle of "common but differentiated responsibilities," which recognizes that while all states share responsibility for addressing global environmental challenges, their duties differ according to their capacities and historical contributions to the problem.

For instance, Article 3(1) of the UNFCCC acknowledges the principle of common but differentiated responsibilities among states regarding climate change (United Nations Framework Convention on Climate Change, 1992). Similarly, Article 6 of the 1992 Convention on Biological Diversity obliges states to adopt "as far as possible and as appropriate general measures for the conservation and sustainable use of biological diversity." Article 17 of the same treaty further prescribes the exchange of information "from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries" (United Nations 1992).

Another distinguishing feature of multilateral environmental treaties lies in the consequences of breaching their obligations. Violations can result in environmental harm that affects multiple states or the international community as a whole. This is evident in the

Convention on Biological Diversity, which explicitly recognizes "the common concern of humankind" in the preservation of biological diversity (United Nations 1992).

Such an approach can be traced to obligations *erga omnes*, i.e., duties owed by a state "toward the international community as a whole" (Barcelona Traction 1970, para. 33). These obligations are binding on all states, irrespective of whether they are parties to a specific treaty. Consequently, a state may invoke responsibility under international law even if it is not directly affected by the breach (Obligation to Prosecute or Extradite 2012).

More recently, this principle was confirmed in a long-awaited Advisory Opinion of the International Court of Justice (ICJ) on the Obligations of States in respect of Climate Change. For the first time, the ICJ recognized environmental obligations of *erga omnes* character, including the duty to protect the climate system and other environmental components from anthropogenic greenhouse gas emissions, the customary obligation to prevent significant transboundary harm, climate change mitigation duties, and arguably the duty to cooperate in environmental protection (International Court of Justice 2025).

It is worth noting that the ICJ concluded that states' obligations to protect the climate system and other parts of the environment from anthropogenic greenhouse gas emissions, including the duty under customary law to prevent significant transboundary harm, are *erga omnes* obligations. In the treaty context, the Court emphasized that the UNFCCC and Paris Agreement frame climate change as a "common concern of humankind" requiring a "global response," thereby establishing that states' treaty obligations to safeguard the climate system are *erga omnes* partes (para. 440). The ICJ affirmed that climate change mitigation obligations are owed to the international community as *erga omnes* duties (para. 443). In contrast, their treaty-based counterparts, namely, the core mitigation commitments under these climate change treaties, constitute *erga omnes* partes obligations (para. 441) (Pezzano 2025).

The Inter-American Court of Human Rights (IACtHR), in its Advisory Opinion 32/25 (AO-32/25), went even further, becoming the first international judicial body to explicitly recognize the prohibition against causing irreversible damage to the climate and the global environment as a *jus cogens* (peremptory) norm of international law. This norm derives from the most essential values of the international community, with the protection of human existence constituting the foundational condition for all other human rights (Columbia Law School 2023).

The role of courts, both the ICJ and regional tribunals, is particularly significant in the fragmented system of environmental law, contributing to the progressive consolidation of the non-derogable prohibition of irreversible environmental harm. The climate emergency has catalyzed a new wave of international judicial engagement, in which courts are increasingly articulating the normative foundations of states' obligations to prevent and remedy climate harm. This jurisprudence is critical when states, such as the United States, withdraw from climate treaties like the Paris Agreement, as obligations to address climate change are *erga omnes*, binding on all states regardless of treaty participation.

This forms the core narrative and traditional sources used in teaching international environmental law. It is followed by substantive international law addressing various regimes, including the regulation of greenhouse gases and climate change, transboundary air pollution, protection of the atmosphere, conservation of the marine environment, hazardous substances, plastic pollution, nature conservation, and protection of biological diversity.

Importantly, this approach is grounded in fundamental principles of international law and is imbued with the spirit of multilateralism, cooperation, and the consolidation of states' efforts to tackle environmental challenges.

This issue has acquired particular salience in the contemporary era, as trust in multilateral diplomacy, including within the institutional framework of the United Nations, has markedly eroded. International law is increasingly perceived as either ephemeral or subject to selective interpretation and double standards, particularly by the permanent members of the Security Council. The world now needs an inclusive, interconnected, and effective multilateral system, as emphasized by the UN Secretary-General (United Nations 2020), at a moment when the organization has reached its eightieth year and faces an existential crisis. This crisis is evident in the UN's inability to fulfill the core purposes entrusted to it by humanity eight decades ago. While the tasks of maintaining peace and security remain unchanged, they now demand greater consolidation of efforts, stronger regional voices, and the emergence of new centers of power beyond the historically exclusive circle of the Security Council's permanent members, whose actions have, in many respects, rendered the institution hostage to their own vested interests.

In this context, what is required is not a revision or abandonment of the international legal system, but the articulation of alternative perspectives emerging from regions and new centers of power that have already demonstrated their credibility as reliable platforms for interregional dialogue. Such perspectives not only enrich the universality of international law but also help restore confidence in multilateralism by broadening its foundations beyond the historically entrenched dominance of a few states.

Among these actors, the Organization of Turkic States (OTS), with its growing institutional capacity and normative ambition, illustrates how regional frameworks can strengthen multilateralism. Established in 2009, the OTS (Nakhchivan Agreement 2009) has developed into a platform for multifaceted cooperation among Turkic states, grounded in shared identity, history, culture, and traditions. At the same time, the OTS emphasizes adherence to the UN Charter and universally recognized principles of international law. Through regular dialogue and constructive engagement with the international community, it "seeks to make a significant contribution to the maintenance of global and regional peace, stability, and sustainable development" (Charter of the Turkic World 2024).

Against this backdrop, integrating the Turkic worldview into the study and teaching of international law is crucial, as it provides valuable insights from a region with a rich history of legal, political, and philosophical thought. By recognizing the significance of shared Turkic heritage and experiences, legal scholars from across the region can help make the international legal system more inclusive, reflective, and responsive to the diverse communities it serves.

As part of the project "Teaching International Law: A Turkic Perspective," funded by a grant from the Turkic Academy, this paper focuses on teaching international environmental law as a case study. This focus reflects both the author's area of specialization and the pressing urgency of the topic, as environmental pollution and climate change constitute among the most critical challenges of our time.

INCORPORATING TURKIC PERSPECTIVES INTO THE TEACHING OF INTERNATIONAL ENVIRONMENTAL LAW

The OTS Initiatives as a Teaching Resource

Within the framework of the OTS, several significant initiatives have been undertaken to strengthen regional cooperation on environmental governance and climate change. This article does not provide a comprehensive analysis of all initiatives and mechanisms, as such an examination falls beyond its thematic scope. However, these efforts are presented as part of the regional experience of the Turkic world, proposed here as a subject for study and teaching within international environmental law.

One of the most notable achievements is the establishment of the OTS Civil Protection Mechanism (Organization of Turkic States 2023), which emerged in response to the devastating earthquake in Türkiye in 2023 and has since been recognized as a milestone in regional disaster preparedness and response.

The OTS has also advanced climate and sustainability agendas through the Partnership for Climate, Innovation, Green Economy, and Trade, launched at COP29 in Baku in 2024 (Organization of Turkic States 2023). This initiative builds on the Garabagh Declaration adopted at the Informal OTS Summit in July 2024 and the Turkic Green Vision: Unity for a Sustainable Future (Organization of Turkic States 2023), endorsed at the Bishkek Summit in 2024, reflecting the collective commitment of Member States to address climate change, foster innovation, and promote sustainable development.

In parallel, the OTS has facilitated the signing of the Declaration of the First Meeting of the Ministers Responsible for the Environment and Ecology (Organization of Turkic States 2023), which lays the foundation for both long-term and short-term strategies in areas such as biodiversity protection, climate policy, and environmental governance. Complementing these measures, regional cooperation in meteorology has been strengthened through the Integrated Meteorological Early Warning System initiative and a dedicated COP29 event coordinated by the OTS (Organization of Turkic States 2023), aimed at enhancing resilience to climate-related risks through improved forecasting and early warning capacities.

Taken together, these initiatives demonstrate the OTS's growing capacity to prioritize environmental governance and disaster management at the regional level. For teaching international environmental law, they provide valuable case studies that complement literature traditionally dominated by global and Western-centric perspectives. Incorporating these materials into the classroom allows students to critically examine how the Turkic world addresses environmental challenges through institutional design, normative commitments, and technical cooperation.

This approach not only diversifies the sources of international environmental law education but also highlights the role of regional intergovernmental organizations in shaping legal responses to climate change and other environmental challenges. In this sense, the Turkic experience can be positioned as a distinctive contribution to the pedagogy of international environmental law, offering students both comparative insights and a deeper understanding of the interplay between global norms and regional practice.

This article focuses primarily on initiatives undertaken within the OTS framework. Nevertheless, it is equally important to examine the experiences of member and observer states individually, considering their domestic measures, legislative strategies, and environmental governance frameworks, as well as their implementation of international obligations arising from the universal treaties discussed in the previous chapter.

It is also noteworthy that Azerbaijan hosted COP29 (Conference of the Parties 2024), and Türkiye has submitted a bid to host COP31 (Ministry of Environment, Urbanization and Climate Change 2025), demonstrating the active engagement of Turkic states in the global climate agenda. This engagement positions the Turkic world not only as a venue for high-level climate diplomacy but also as a meaningful platform for monitoring progress, facilitating global climate dialogue, and advancing the implementation of international environmental agreements.

Against this backdrop, organizing COP simulations in Turkic universities, alongside Model OTS initiatives (similar to Model UN) focused on regional climate issues, would further strengthen this role. Such initiatives would provide experiential learning opportunities, foster youth engagement, enhance policy literacy, and prepare future leaders to actively contribute to climate action and diplomacy both within the Turkic world and on the global stage.

Challenges of Turkic Perspectives in Teaching International Environmental Law

The International Environmental Law course would likely be offered as an elective within law faculties or relevant interdisciplinary programs in Turkic states. Currently, many universities across the region do not offer an independent master's program specifically focused on international environmental law. This reality necessitates careful consideration of learning objectives, key outcomes, and course structure.

The situation is further compounded by the scarcity of traditional textbooks or academic resources that present international environmental law from a Turkic perspective. As a result, similar to teaching practices in other regions, case studies from the Turkic world, as well as journal articles, blog posts, interviews, and podcasts, become essential teaching materials. Such diverse sources provide practical and context-specific insights while encouraging critical engagement with how the Turkic world interprets and applies international environmental law. Incorporating these materials into the curriculum allows students to explore both theoretical frameworks and lived experiences, fostering a richer, more pluralistic understanding of environmental governance and its regional particularities.

As emphasized throughout this article, the aim of such an initiative is twofold: to offer an alternative perspective from the region and to address gaps within the fragmented paradigm of international environmental law. Moreover, the project of teaching international law from Turkic perspectives in general, and international environmental law in particular, should be understood as part of a broader objective: ensuring the representation of regional actors in international law when addressing global environmental challenges that require the concerted efforts of states, both within universal and regional intergovernmental organizations. A more pluralistic curriculum today can contribute to a broader geographical representation of regional voices in the governance of humanity's global problems tomorrow.

CONCLUSION

Based on the above discussion, it can be concluded that modern challenges and threats require an immediate and effective response from the international community. The United Nations, as the sole universal intergovernmental organization tasked with ensuring international peace and security, has fallen short of its primary charter objective; it has not "saved future generations from the scourge of war." Eighty years after its establishment, it is evident that the UN often fails to respond to pressing challenges in a timely manner and has become susceptible to political paralysis, particularly within the Security Council, where permanent members frequently act solely in their own interests.

Criticism of the Security Council also extends to its structural composition, which many argue does not adequately reflect the balance of power in twenty-first-century international politics, nor the actual contributions of states to maintaining international peace and security. Against this backdrop, calls for reform of the UN and the global order, which have historically been dominated by a Western narrative, including in international law, have gained momentum. As argued in this paper, Western approaches have long shaped both the academic discourse and practical implementation of international law. While the discipline aspires to universality, it is evident that specific historical, geopolitical, and cultural contexts shape its foundations. This reality becomes particularly apparent when examining how international law is taught and interpreted across different regions.

In this context, regional critiques of international law have resurfaced, particularly from emerging centers and regional organizations. The OTS, which in a relatively short time has developed into an effective platform for regional dialogue, represents a promising actor, demonstrating the potential of regional approaches to strengthen multilateralism and broaden the diversity of voices within the global legal order.

Of particular relevance to this paper is the observation that integrating Turkic perspectives into the teaching of international law, and more specifically, international environmental law, offers not only a new pedagogical framework but also a normative contribution to the discipline. The experiences of the Turkic world in environmental protection, exemplified by the OTS Civil Protection Mechanism, the Turkic Green Vision, and other climate and sustainability initiatives, provide valuable case studies for rethinking how international environmental law can be conceptualized, taught, and practiced from this perspective.

Developing a more pluralistic syllabus for teaching international environmental law from a Turkic perspective is therefore essential, not only to diversify academic discourse but also to reflect the practical contributions and normative approaches emerging from the Turkic world to global environmental governance.

The analysis presented in this article demonstrates that teaching international environmental law from Turkic perspectives is not merely an academic exercise but a necessary step toward a more inclusive, pluralistic, and responsive international legal system. This study makes a foundational contribution to the emerging discourse on regional approaches to international law, offering both theoretical insights and practical resources that can enrich global environmental governance and advance the teaching and practice of international environmental law.

This study has several limitations. First, it focuses primarily on the initiatives and experiences of the OTS and its Member States, without providing an exhaustive analysis of all regional or national environmental governance practices. Second, while it emphasizes the pedagogical implications of Turkic perspectives in teaching international environmental law, it does not include empirical classroom-based testing of these approaches. Third, the study relies on secondary sources, policy documents, and regional declarations, which may not fully capture the practical challenges of implementation or the diversity of opinions within Member States. Finally, the paper's thematic scope prevents a comprehensive examination of all global environmental law developments or alternative regional perspectives.

These limitations highlight the need for future research incorporating empirical data, broader regional comparisons, and long-term assessments of pedagogical impact. Such avenues will be pursued within the framework of the research project "Teaching International Law: A Turkic Perspective", funded by the Turkic Academy research grant, with outcomes to be consolidated in a forthcoming monograph authored by scholars from across the Turkic world.

CONTRIBUTOR

The author contributed solely to the intellectual discourse that forms the foundation of this article, as well as its writing and editing, and assumes full responsibility for its content and interpretation.

COMPLIANCE WITH ETHICAL STANDARDS

Acknowledgments:
Not applicable.

Funding:
This paper is part of a research project titled "Teaching International Law: A Turkic Perspective," funded by a grant from the Turkic Academy under the auspices of the Organization of Turkic States.

AI Declaration:
The authors acknowledge the use of AI tools—specifically ChatGPT-5—to assist in translating and enhancing the clarity and quality of the English language in this manuscript. These AI tools were employed solely for language refinement and were not involved in the conceptualization, analysis, or development of the scientific content. The authors assume full responsibility for the manuscript's originality, accuracy, validity, and integrity.

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Disclosure statement:
No potential conflict of interest was reported by the author/s.

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Journal of Legal and Political Education · Volume 2 · Number 2 · 2025 · eISSN: 2955-2389
Published online by the Institute for Research and European Studies at www.iies.mk/jlpe

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(*) Corresponding author
Peer review method: Double-blind
Research article
DOI: https://doi.org/10.47305/jlpe.2025.1955
Received: 10.03.2025 • Accepted after revision: 08.12.2025 • Published: 20.12.2025
Pages: 65-86

Digital Transformation in Romanian Higher Education: Policy-Driven Strategies and Institutional Governance

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Abstract: *This paper examines the digitalization of higher education in Romania by analyzing the digital strategies of four major universities: Babeș-Bolyai University, the University of Bucharest, Alexandru Ioan Cuza University of Iași, and the Western University of Timișoara. Using qualitative content analysis of institutional strategic documents, the study explores how digitalization is framed and implemented. The findings show that digitalization efforts during the COVID-19 pandemic were primarily driven by top-down pressures from the European Union's policy framework and funding mechanisms, particularly the Next Generation EU program. Due to limited expertise and institutional capacity at the national and university levels, many initiatives were reactive and limited in scope. The study contributes empirical evidence on digital transformation in Romanian higher education, a topic that remains underexplored in the literature.*

Keywords: *Digitalization; Higher Education; Romania; University Strategies; EU Policy; COVID-19 Pandemic; Institutional Capacity*

INTRODUCTION

The digitalization of higher education has assumed a prominent position in universities' strategic agendas amid the COVID-19 pandemic, compelling educational institutions to rethink teaching and learning processes. Although universities physically closed their campuses, they continued to operate online and were required to ensure the delivery of quality education to their students. This transition proved particularly challenging for universities in Central and Eastern Europe, many of which were developing digitalization plans for the first time. A significant number of these institutions entered the pandemic with limited experience in digital transformation, constrained financial resources, low levels of digital literacy among both students and academic staff, and insufficient government support.

With the digital transformation of universities and the digitalization of teaching and learning, issues that received limited attention prior to the COVID-19 pandemic but gained increased prominence following the European Union's prioritization of digital policy and its commitment to transforming higher education institutions, it has become especially relevant to examine how universities have responded to these developments, particularly by focusing on the drivers behind these processes.

Romania represents a pertinent case for examination. The relevance of this research lies in the fact that, although a substantial body of scholarly literature addresses the digitalization of higher education, empirical evidence from Central and Eastern European universities remains limited. While recent studies have begun to explore the Romanian case, highlighting the critical role of the pandemic in accelerating digital transformation through the rapid adoption of digital

tools for teaching, learning, and administration, which have continued to be used in the post-pandemic context (Hudrea et al. 2023, 60), little attention has been paid to how universities articulate their digitalization strategies.

This article addresses this gap by examining the digitalization strategies of four of Romania's most prominent universities. It raises two research questions: What factors have contributed to the digitalization of higher education at Romanian universities? Furthermore, given that the primary mission of higher education institutions is teaching and research, how have universities articulated teaching and learning within their digitalization blueprints? The paper advances the argument that the digitalization of universities is primarily driven by a top-down regulatory approach, notably shaped by the European Union. The proliferation of initiatives in the education sector under the EU's digital transformation policies has had a significant impact on higher education. By contrast, pressure from the national government remains relatively low, as the Romanian state lacks experience in digitalization policies and has failed to establish a coherent agenda for digitalizing education. Universities themselves also remain relatively inexperienced in this area, with issues related to teaching and learning addressed only superficially.

Existing research on digitalization in higher education highlights the interplay between top-down factors, such as national and supranational pressures, and bottom-up drivers, as well as the roles played by academic leadership, teaching staff, and student engagement. Building on this body of scholarship, the paper draws on the theoretical framework developed by Tømte et al. (2019) and tests two hypotheses:

H1: European Union policies and funding initiatives have accelerated digitalization in Romanian higher education institutions (HEIs).

H2: National policies exert a weaker influence than EU-level drivers, and the initiatives of university leadership are limited.

This paper makes an empirical contribution to the literature on the digitalization of higher education institutions by examining the Romanian case, focusing on the internal and external processes that have shaped this transformation. The article is structured as follows. The next section reviews the existing academic literature on the drivers of digitalization, emphasising both top-down and bottom-up initiatives. The subsequent section presents the theoretical framework, drawing on Tømte et al. (2019), and conceptualises the digitalization of higher education institutions as the outcome of both external and internal processes. The final sections discuss the main findings and their implications for the digitalization of teaching and learning in Romanian higher education institutions.

LITERATURE REVIEW

Conceptual Clarifications: Digitization, Digitalization, and Digital Transformation

In examining scholarly debates on digitalization and the factors contributing to its spread in higher education, clarification of terms is necessary. Scholars of digitalization argue that several concepts are often used interchangeably, including digitisation, digitalization, and digital transformation (Kopp et al., 2019, 1449), which can create conceptual confusion and

therefore require greater clarity. Digitisation refers to the process of shifting from analogue to digital formats (Kopp et al., 2019, 1449) or to the creation of a digital replica of physical objects or attributes (Sen Gupta 2020). For example, during the COVID-19 pandemic, university libraries digitised teaching materials such as textbooks and academic journal articles in order to provide students with access to learning resources as teaching moved online and physical libraries were closed. Digitisation can therefore be understood primarily as a technical process.

By contrast, digitalization is more challenging to define and requires a more unified conceptualisation (Bloomberg 2018). Mark Sen Gupta highlights the distinction between digitalization and digital transformation, arguing that digitalization refers to integrating digital technologies to enhance existing processes without necessarily leading to fundamental change. Digital transformation, on the other hand, denotes change that is triggered by both digitalization and digitisation (Sen Gupta 2020). Benavides et al. further clarify this relationship by noting that digitalization constitutes a component of digital transformation.

According to a systematic literature review and inventory of existing definitions, digital transformation can be described as an accelerated process of evolution or revolution involving the innovative use of new technologies to introduce new services, as well as the adaptation of processes, procedures, and organizational capabilities in order to exploit the opportunities created by these technologies, often referred to as digital disruption (Benavides et al., 2020, 8). A more comprehensive definition additionally emphasizes that digital transformation encompasses changes in people, processes, strategies, organisational structures, and competitive dynamics (Wade 2015, 4). In conclusion, digital transformation implies cross-sector organisational change (Bloomberg 2018).

Bottom-Up and Top-Down Drivers of Digitalization

The academic literature identifies both bottom-up and top-down factors that drive the digitalization of higher education institutions. Much of the literature on the digitalization of teaching and learning emphasizes bottom-up drivers, particularly the crucial role of students who increasingly seek more flexible learning opportunities supported by digital technologies (Schuetze et al. 2024, 8).

Faculty engagement is another key factor. Scholars have examined instructors' attitudes toward integrating digital technologies into teaching and the transition from face-to-face to online education. Their findings indicate that the availability of adequate infrastructure, such as learning management systems or smartboards, and access to technical support significantly shape faculty attitudes toward online education (Glushenkova and Zagato 2023, 13). Such support helps ensure that instructors do not feel isolated in the digitalization process. Addressing these challenges through staff training and peer exchange has been identified as a key solution, as it enables educators to share experiences and learn from one another (European University Association 2022, 5).

In addition, instructors' prior experience with technology, teaching styles, and levels of digital competence influence their willingness to embrace or resist digitalization. Other factors, such as increased workload, can also act as deterrents (Jensen et al. 2020). These challenges became particularly evident during the COVID-19 pandemic, when faculty were required to adapt rapidly to new educational realities. Instructors had to devote additional time to creating

digital teaching materials, learning to use new digital tools, and developing pedagogical approaches suitable for online environments. At the same time, academic leadership plays a critical role in advancing digitalization. The effective design and implementation of digitalization strategies are prerequisites for universities to succeed in this process (Kopp et al. 2019, 1451). For such strategies to be effective, they must be supported by both faculty and administrative staff, as this support is essential for building confidence and trust in those leading the change (Khalid et al. 2018, 269). Moreover, digitalization strategies must go beyond purely technical considerations; otherwise, they risk failing to generate meaningful digital transformation (Kopp et al. 2019, 1452). Finally, in an increasingly competitive higher education environment, the need to remain digitally relevant and to be recognized as digital leaders constitutes an additional incentive for universities to pursue digitalization (Islam et al., 2018).

At the macro level, digitalization is shaped by broader political, economic, and technological contexts. Demographic changes (Klemenčič and Ashwin 2015) require universities to adapt their offerings in order to attract non-traditional and international students through hybrid or online programs. Global trends, such as the expansion of digital education and the opportunities created by massive open online courses (MOOCs) (Vázquez García 2015), further motivate universities to adapt and strengthen the internationalization of their academic activities. In addition, national and European legal frameworks, including the availability of European Union funding (European University Association 2022, 5), contribute to this dynamic. Finally, labor market pressures and the growing demand for digital skills represent further explanatory factors shaping the digitalization of higher education institutions (Robertsone and Lapina 2022, 156).

THEORETICAL APPROACH

External and Internal Processes

The paper draws on the theoretical framework developed by Tømte et al. (2019), which examined the digitalization of higher education through the cases of the Danish and Norwegian educational systems. The authors conceptualize digitalization as the interaction between external and internal processes. External processes include variables such as international trends or governmental actions, while internal processes emphasize the role of administrative and academic leadership (Tømte et al. 2019, 102).

Building on this framework, the present study adapts it to the current research context. The analysis focuses on two external drivers: the European Union and the national government. Among internal factors, the role of academic leadership is examined. While Tømte et al. (2019) also mention "institutional academic enthusiasts" or pedagogical innovators as part of internal mechanisms (Tømte et al. 2019, 102), this paper excludes them for several reasons. First, the study focuses on institutional dynamics rather than micro-level analysis. Second, given that Romanian universities are traditionally oriented toward teaching, learning, and research, these bottom-up initiatives are likely to remain limited and have minimal impact.

In addition to examining external and internal drivers, the analysis also considers how universities conceptualize teaching and learning within their digitalization strategies. This aligns with the paper's second research question, as teaching and learning are central to all strategic

digital transformation agendas. These strategies aim to identify challenges in the teaching and learning process. To capture this dimension, the paper applies the classification by Benavides et al. (2020), based on their systematic literature review of the teaching component. This classification encompasses digital infrastructure, such as learning management system platforms, digital literacy and skills, and innovative pedagogical methodologies (Benavides et al. 2020, 14). Figure 1 illustrates the conceptual model, adapted from Tømte et al. (2019) and Benavides et al. (2020).

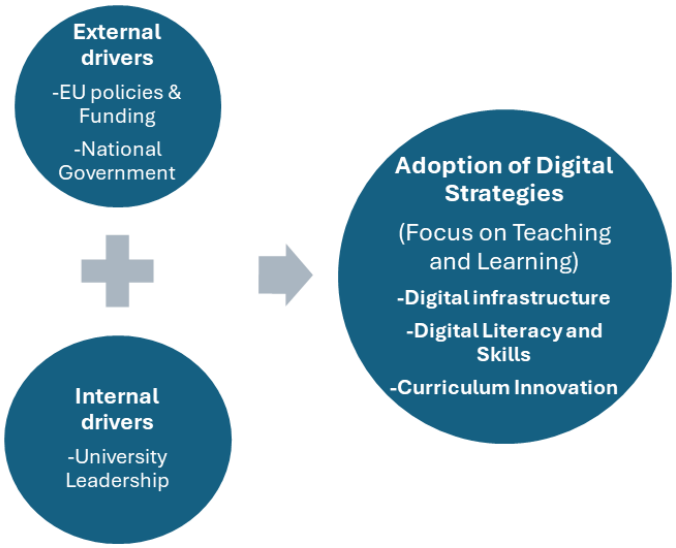

Figure 1: Conceptual Model of Digitalization Drivers
(Source: Author's depiction, adapted from Tømte et al. 2019; Benavides et al. 2020)

From this framework, two hypotheses are derived:

H1: European Union policies and funding initiatives have accelerated digitalization in Romanian higher education institutions (HEIs).

H2: National policies exert a weaker influence than EU-level drivers, and the initiatives of university leadership are limited.

METHODOLOGY

This study uses a qualitative comparative case study to examine digitalization in Romania's largest and top-ranked public universities: Babeș-Bolyai University (UBB), the University of Bucharest (UB), the University of Iași (UAIC), and the Western University of Timișoara (UVT). These universities were selected based on their year of establishment, national rankings, quality of teaching and research, regional representation, and their role as benchmark institutions in shaping higher education policy. All four first implemented digitalization strategies in response to the COVID-19 pandemic.

Data Collection and Analysis

The primary data sources consist of the official digitalization strategies and related policy documents, namely, university strategic plans and the three rounds of reports on the state of university affairs released by the Rector's Office (published by the four universities between 2020 and 2022). This timeframe was selected because these years marked the adoption of the first generation of digitalization strategies, all developed under similar circumstances due to external pressures. Documents were chosen for their strategic significance, as the digitalization strategies articulate the philosophy guiding the digitalization process, outline its objectives, and include other initiatives that support the broader digital transformation process.

The document analysis follows a two-step approach. First, the digitalization strategies are evaluated against both internal and external drivers, using the analytical framework of Tømte et al. (2019) to assess the influence of EU initiatives and the role of national governments. The university documents are examined using qualitative content analysis, with thematic coding applied according to the predefined categories. In the second stage, the strategies are further analyzed with respect to how they conceptualize teaching and learning. Additional insights are gained by examining the chapter on the state of digitalization, a critical section of the Rector's annual reports. Following Benavides et al., the analysis seeks to determine whether the digitalization of teaching and learning is framed predominantly in technical terms, focusing on aspects such as digital infrastructure (e.g., digital platforms), or whether it is more closely linked to pedagogical innovation and curriculum development, as reflected in EU educational initiatives.

RESULTS

External Processes: The Influence of External Drivers

The Role of the European Union

The EU benefits from supporting competencies in education and, as such, must rely on non-binding legislation to complement Member States' policies in this area. Over the past 20 years, the EU has adopted several strategies and soft law instruments to address various educational challenges, including school dropout rates and improving educational quality. This has led to substantial experience and expertise in education. One of the most prominent initiatives within the EU was the Bologna Process, developed through the Open Method of Coordination, which led to the creation of the European Higher Education Area.

Despite the success of the Bologna Process, as measured by the growing number of countries that have joined since its establishment in 2004, and the impact of digital technologies on contemporary society, it is surprising that the Bologna Process has remained without a digital component. Experts in higher education digitalization also emphasize this issue and highlight the need for a structured integration of the digital dimension in education policy (Orr et al. 2020). However, with the EU's digital transformation and digital policy becoming a key priority under the first Von der Leyen Commission (2019–2024), the digitalization of education has entered the European Commission's agenda more systematically, with a focus on higher

education. The adoption of the Digital Decade Programme 2030, which guides the EU's digital actions, carries significant implications for higher education institutions across Member States.

Several arguments support this claim. First, the EU has set an ambitious digitalization agenda by framing the Digital Decade as "everyone has the skills to use everyday technology… where no one is left behind" (European Commission 2023). In alignment with this vision, the EU has established clear targets to achieve digitally competent citizens, including the objective of at least 80% of Europeans acquiring basic digital skills by 2030 (European Commission 2023b).

These goals have direct implications for education, as universities must prepare a digitally skilled workforce and promote digital citizenship, enabling EU citizens to participate in democratic life and exercise fundamental rights, such as freedom of expression, in the online environment. The urgency of this initiative is underscored by the potential for the digital divide to exclude citizens from accessing public services, employment opportunities, educational programs, or participating as engaged digital citizens. Consequently, universities play a critical role in bridging the digital skills gap and empowering citizens to exercise their digital rights.

Second, the EU's adoption of the Declaration on Digital Rights and Principles in 2022 recognizes the right to digital education, which represents an extension of the right to education enshrined in the EU Charter of Fundamental Rights. The inclusion of this right is expected to pressure EU Member States and universities to formulate and implement policies that integrate digital technologies into teaching and learning. Together with the Digital Education Action Plan for 2021–2027, this marks a new turning point for the EU in supporting the digital transformation of higher education institutions.

Accordingly, it is not surprising that the European Commission took the next logical step by adopting an EU Strategy for Universities, aimed at reinforcing transnational cooperation among European universities. The Strategy serves multiple purposes: developing a genuine European dimension of education, supporting universities in adapting to changing conditions to thrive, and contributing to post-pandemic recovery (European Commission 2022a, 6).

Funding Instruments as Catalysts

EU objectives are supported through financial programs, including the Digital Europe Programme, Horizon Europe, Erasmus+, and, most notably, the Next Generation EU mechanism.

Additionally, through the Strategy for Universities, the EU is prepared to allocate €80 billion in funding (European Commission 2022a, 11). This represents a significant opportunity for Central and Eastern European universities to join transnational alliances aimed at closing the digital gap. Such collaborations are expected to connect universities from new Member States, including Romania and Bulgaria, where teaching and research quality have not yet reached the standards of Western institutions. This will help improve teaching and research programs. Furthermore, it can drive change by transforming universities into more digitally aware institutions through the exchange of best practices with more technologically advanced higher education institutions.

Moreover, these initiatives have the potential to foster innovation by encouraging the creation of joint transnational programs and significantly impacting students and teaching staff through the integration of digital technologies in teaching and learning. They will equip students with essential digital competencies and support the professionalization of teaching

staff, who require additional training in both technology use and new pedagogical approaches that incorporate digital tools.

The level of funding is also noteworthy, as Romanian universities have long suffered from chronic underfunding, and digitalization has not received consistent attention since the COVID-19 pandemic. This presents an opportunity for Eastern European universities to become more competitive, adapt to emerging dynamics, enhance the quality of their teaching and research programs, and increase the attractiveness of higher education.

For Romanian universities, the Next Generation EU framework and the National Resilience and Recovery Plans (NRRP) have been transformative. Under the NRRP, which prioritizes digitalization in higher education, €234 million has been allocated to support sixty Romanian universities in continuously developing their teaching and learning programs and establishing "innovative technology centers to develop the skills of the future" (Ministerul Investițiilor și Proiectelor Europene 2022, 4).

However, these opportunities have also exposed institutional weaknesses. Universities were required to demonstrate the existence of digital transformation strategies to access funding, and many had to draft such strategies within days (Mărcuț 2022). This compressed timeline left little room for stakeholder consultations, despite the disruptive nature of digital transformation. Additionally, it discouraged in-depth reforms, leading to a fragmented approach and only a superficial impact on digital transformation. As highlighted by scholarly research, digital transformation involves structural change; it requires time, and "impulsive action" can have negative consequences (Kopp et al. 2019, 1451).

National-Level Initiatives

In contrast, national-level initiatives in Romania have been limited in scope and impact. The country has developed a lagging reputation in this field and began the digitalization process relatively late compared to other EU Member States. A turning point came with the launch of Educated Romania in 2018, an initiative of the Klaus Iohannis Presidential Administration, which brought the issue of digitalizing education onto the national policy agenda.

Romania established, for the first time at the end of 2019, institutional structures such as the Authority for Digitalization. However, more consistent initiatives emerged in response to the COVID-19 pandemic. The education sector, in particular, adopted a Strategy for the Digitalization of Education in 2021, motivated by the urgency of the pandemic and the need to align the Romanian educational system with EU initiatives, such as the EU Digital Education Action Plan 2021–2027 (Ministerul Educației și Cercetării 2021, 5).

Despite these advances, progress has been slow, as reflected in Romania's consistently low performance in the Digital Economy and Society Index (DESI), where it ranks near the bottom among EU Member States in terms of human capital, connectivity, and digital public services.

Internal Drivers: University Responses and Digitalization Strategies

Analysis of the digitalization strategies of four major universities, Babeș-Bolyai University (UBB), University of Bucharest (UB), Alexandru Ioan Cuza University of Iași (UAIC), and Western University of Timișoara (UVT), reveals that Romanian universities' approaches to digital transformation are largely externally driven rather than bottom-up (see Table 1). All four universities adopted digitalization strategies between 2020 and 2022, primarily in response to two major external shocks: the COVID-19 pandemic and EU-driven incentives, particularly funding opportunities under the Next Generation EU and Romania's Resilience and Recovery Plan.

The pandemic is framed as both a temporary crisis and a catalyst for lasting change. It forced a rapid shift to online education and accelerated the adoption of digital tools and platforms across universities. However, leadership at universities such as UVT and UBB emphasizes that digitalization was already part of a long-term strategic vision before the pandemic, with the crisis accelerating and deepening rather than initiating these efforts. Universities recognize the pandemic as an opportunity to integrate new digital competencies and rethink educational delivery modes, moving toward hybrid and blended models. The crisis also highlighted the need for mental health support and equitable access to digital education.

Digitalization strategies explicitly align with EU norms, policies, and frameworks, including GDPR compliance, integration with European digital infrastructures (e.g., Single Sign-On systems, European Student Card), and participation in European university alliances such as UNITA (UVT), CIVIS (UB), Eutopia, and The Guild (UBB). EU funding mechanisms, including Next Generation EU, the Romanian Plan for Recovery and Resilience (PNRR), Structural Funds, and Horizon Europe, provide significant financial support for digital infrastructure, platform development, and innovation projects. These funding opportunities act as strong motivators and enablers of digital transformation efforts. Digitalization is framed as a means to align with EU digital transformation goals, including the Digital Decade and the European Education Area. Universities are positioning themselves to meet EU expectations for modernization, sustainability, internationalization, and competitiveness.

Particularly decisive were the Next Generation EU funds, which prioritize digitalization and the green transition, with universities playing a pivotal role. In 2022, sixty universities in Romania were selected for funding to implement digitalization projects, with eligibility contingent on the existence of a Digitalization Strategy. This represents the first step for public and private higher education institutions to adopt formal digitalization strategies. However, the success of such initiatives also depends on the quality of these strategies, whether they are developed through broad stakeholder consultations or informed by lessons from more digitally mature institutions. Such an approach can help reduce distrust among teaching and administrative staff regarding the potentially disruptive processes of change.

The Digitalization of Teaching and Learning

Teaching and learning are fundamental to the mission of higher education institutions and play a crucial role in shaping how digital transformation occurs within universities. Utilizing the framework proposed by Benavides et al. (2020), which identifies three key dimensions of

digitalization: digital infrastructure, digital literacy and skills, and innovative curriculum and pedagogies, this section examines how these elements are incorporated into the universities' digitalization strategies. Table 2 summarizes the primary features of each institution's approach.

All four strategies recognize the digitalization of teaching and learning as a dual challenge, involving both technical and pedagogical dimensions. The technical dimension focuses on the development and modernization of digital infrastructure, including e-learning platforms, cloud solutions, and hardware and software upgrades. The pedagogical dimension emphasizes innovation and curriculum transformation, incorporating digital tools and methods into teaching, updating curricula to include digital competencies, and training academic staff in digital skills.

Table 1: Institutional Strategies for Digitalization in Romanian Higher Education: Internal and External Drivers (Source: Author's depiction, based on digitalization strategies)

University	Strategy Type	Timeframe	Rationale	Primary Driver	Orientation
Babeș-Bolyai University (UBB)	Digital Transformation	2020-2027	World-class and digital university by 2027.	External (COVID-19, EU funding), with some internal efficiency goals.	**Proactive** Long-term plan reflects a deeper structural approach.
University of Bucharest (UB)	Digital Transformation	2022-2027	Modern university with high-quality digital education, research and administration by 2027.	External (COVID-19, Resilience and Recovery Plan).	**Reactive** Strategy designed to align with EU-funded projects.
University of Western Timișoara (UVT)	Digitalization	2022-2025	Centre of excellence in digital services by 2027.	Mix of early internal prioritization and external incentives.	**Proactive** Started prioritizing digitalization before the pandemic; less structured Strategy.
Alexandru Ioan Cuza University (UAIC)	Digitalization	2022-2025	Develop and integrate advanced information and communication technology (ICT) resources and systems to enhance education, research, and administration.	External (COVID-19, EU funding).	**Reactive**

Digital Infrastructure: Digital Platforms

All four universities prioritize teaching and learning in their digitalization strategies, identifying the need to upgrade digital infrastructure as a primary challenge. This includes the systematic implementation of learning management systems (LMS) across all faculties and departments within the university. Before the pandemic, these tools were not used uniformly.

For example, at Babeș-Bolyai University, Moodle served as the platform for distance learning programs, but it had not been integrated into regular teaching. It was regarded as a "special tool" for online teaching, reflecting the prevailing traditional perspective on teaching in Romania's academic landscape.

Universities have either opted for free LMS platforms such as Moodle or acquired Microsoft licenses. Anecdotal evidence suggests that most teaching staff have continued to use these tools even after the return to face-to-face classes, which are now supported by digital teaching infrastructure. Those who have abandoned this method tend to be staff with limited digital skills or those who did not regularly incorporate digital tools into their teaching, for whom the COVID-19 pandemic was not a profoundly transformative learning experience.

Digital Literacy and Skills for Educators

One of the most significant barriers to the digitalization of teaching and learning is the digital literacy of teaching staff. All four strategies recognize the need to improve educators' digital skills through training opportunities, including formal training programs, workshops, and the integration of digital tools into teaching. For example, UVT's Teaching and Learning Brand program is a notable initiative that equips new academic staff with e-learning skills and pedagogical innovation training. It also plans to design training programs aligned with the European Framework for the Digital Competence of Educators (DigCompEdu) by 2025. Similarly, UB's participation in the CIVIS alliance has exposed staff to workshops and European training opportunities focused on digital transformation and innovative pedagogies. By contrast, UBB has emphasized digitalizing academic and administrative processes, particularly by focusing on training administrative staff in digital and language skills.

Universities recognize that digital literacy is a fundamental issue, especially given their status as large institutions with substantial teaching staff. Training programs must be tailored to address the diverse digital skill levels of staff, which is an asymmetrical challenge. Some teachers possess advanced skills, others have moderate skills, while some fall behind. This partly explains why universities have prioritized the digitalization of administrative services, a more technical process that is easier to implement and yields measurable outcomes. For example, all four universities have developed online admission platforms for their teaching programs and graduation processes, requiring students to register online to take final exams and defend their BA or MA theses. These administrative operations were previously available only offline through traditional brick-and-mortar services.

Innovative Curricula and Modern Pedagogies

In terms of innovative curricula and pedagogies, the results are mixed, making this one of the most challenging areas of digitalization. It involves academic, curricular, or structural innovation (Benavides et al. 2020, 14). Some universities have begun to reconceptualize teaching and learning as part of their digitalization efforts, while others remain focused primarily on technological aspects (see Table 2).

Table 2: Teaching and Learning Dimensions: Digitalization Strategies (Author's depiction, based on the rectors' annual reports 2020–2022)

University	Digital Platforms	Digital Literacy and Skills for Educators	Innovative Curricula and Pedagogies
Babeș-Bolyai University (UBB)	Microsoft Teams has been adopted as the university-wide learning management system (LMS) for courses and meetings. Continuous integration of digital tools (2021-2022). Turnitin is used for academic integrity.	Extensive training for personnel in digital competencies, recognizing a persistent gap in digital skills and addressing it through ongoing professional development.	The UBB-EON-XR Centre integrates AR/VR technology with pedagogy. Strong focus on artificial intelligence. Involved in the European Institute of Innovation and Technology (EIT). Institute in Artificial Intelligence, Virtual Reality, and Robotics.
University of Bucharest (UB)	Moodle-based educational platform for teacher training and blended learning since 2017.	Participation in European university alliances (e.g., CIVIS) offering workshops on innovative pedagogies and digital transformation in education.	Blended learning and MOOCs as strategic priorities.
University of Western Timișoara (UVT)	The Moodle platform serves as the main e-learning environment. Unita Virtual Campus: facilitates transnational learning and collaboration.	Training in e-learning technologies (Moodle 3.11 and 4.0) UVT Teaching and Learning Brand" (professional development program for new academic staff).	Implementation of flexible learning pathways. UVT coordinates the network of teaching and learning centers within the UNITA Alliance.
Alexandru Ioan Cuza University (UAIC)	Unified LMS for course management across faculties.	Integrated digitalization strategy aimed at training academic staff on new digital technologies to support educational and research activities.	Integration of Flexible and Non-Traditional Learning Modes.

UBB demonstrates the most visible progress through its integration of augmented reality (AR) and virtual reality (VR) technologies, indicating a shift toward more experiential and interactive forms of learning.

A notable example of curriculum innovation is the introduction of specialized programs in technology-related fields, such as artificial intelligence, robotics, or big data science. This is expected to increase the number of ICT specialists in Romania, which currently lags behind the

EU average at 2.6% according to the DESI report for 2022 (European Commission 2022b, 7). UBB was the first academic institution in Romania to offer an undergraduate program in artificial intelligence, starting in September 2023. Other universities are considering introducing new specializations, including cybersecurity programs, the use of artificial intelligence as a teaching tool, gamification in teaching and learning, and virtual mobility through the UNITA alliance (UVT). UB, in turn, has prioritized blended learning and the development of MOOCs in its Strategy, signaling alignment with European digital education priorities.

Overall, while universities recognize the importance of digital transformation, pedagogical change remains at an early stage, often overshadowed by infrastructural and technical objectives. However, these examples show that Romanian universities are striving to adapt and prepare students for the future, countering the tendency to "prepare students for jobs in the past and at most in the present and less for the future" (Noja and Pânzaru 2021, 8). Romanian academia faces a modernization deficit and requires streamlining, but achieving this depends on several critical factors: transformative academic leadership, highly skilled teaching staff, and adequate financial resources.

DISCUSSION

The COVID-19 pandemic has significantly accelerated the digital transformation of higher education, fundamentally changing how universities operate. Romanian universities faced systemic weaknesses, including the absence of digital teaching infrastructure, low digital literacy among faculty and students, and limited use of digital tools in teaching and learning. To avoid "digital chaos," universities began developing digitalization or digital transformation strategies for the first time. However, as the findings show, these strategies emerged primarily in response to external pressures rather than from prior internal expertise or leadership vision. This initial phase of higher education digitalization was primarily driven by top-down pressure from the EU. This outcome aligns with Tømte et al. (2019) conceptualization of digitalization as shaped by both external and internal processes, but in the Romanian context, external drivers clearly dominated.

The findings support H1, indicating that EU policies and funding have been the main catalysts of digitalization. Although the EU relies on soft law legislation in the education sector, it has successfully advanced the digitalization of the European Higher Education Area, addressing a previously missing link in the Bologna Process.

Limited national involvement supports H2, characterized by weak, fragmented initiatives that were primarily reactive to EU frameworks rather than the result of proactive domestic planning. Romania introduced its first Strategy for the Digitalization of Education in 2021, while continuing to rank among the lowest performers in Europe in terms of digital education and infrastructure (Curaj et al. 2020). This situation aligns with broader literature on higher education in Central and Eastern Europe (CEE), which describes Romania as a "digital laggard," reliant on external pressure to initiate reforms. Consequently, government actions have primarily been responses to EU initiatives.

The university administrative leadership largely assumed a reactive role. Three of the four universities, University of Bucharest (UB), Alexandru Ioan Cuza University (UAIC), and, to a lesser extent, Western University of Timișoara (UVT), developed strategies only after EU frameworks

and funding opportunities created both pressure and incentives. These cases illustrate how institutional leadership aligns with external drivers rather than with bottom-up factors. For UAIC and UB, this framework contributed to the emergence of strategic plans.

Other universities, however, initiated digitalization efforts earlier. For example, in 2020, Babeș-Bolyai University elected a new rectorate and articulated a vision to transform the institution into a world-class university. This transformation aimed to align the university with international trends and implement digital transformation. The Rector emphasized the need to develop a Digitalization Strategy (Daniel David 2020, 19). Consequently, Babeș-Bolyai University adopted a long-term strategy in 2020, envisioning a transformation into a digital university by 2027 (Universitatea Babeș-Bolyai 2020, 8). The University of Western Timișoara was also proactive regarding the digitalization of education, as highlighted by the UVT Rector. Digitalization became a topic of interest beginning in 2017–2018. These findings reveal several patterns. They support the argument that universities often adopt digitalization impulsively and in fragmented ways (Kopp et al., 2019), driven primarily by exogenous pressures and the opportunity to establish a digitalization agenda and secure funding. At the same time, the findings challenge research emphasizing the role of bottom-up drivers, such as student demand or faculty innovation (Schuetze et al. 2024), as these factors played only a marginal role in the Romanian context.

The Digitalization of Teaching and Learning

When examined through the framework proposed by Benavides et al. (2020), which includes digital infrastructure, digital literacy, and innovative curricula and pedagogies, Romanian universities exhibit uneven progress.

First, all four universities have made substantial advances in developing their digital infrastructure, particularly through the expansion of LMS platforms (e.g., Moodle or Microsoft Teams) and the transformation of traditional administrative services into digital formats. These improvements, initiated during the COVID-19 pandemic, have continued to evolve, contributing to a deeper level of digital transformation.

Second, while digital literacy and the enhancement of academic staff's digital skills have become formal priorities on strategic agendas, an analysis of the Rectors' reports on digital affairs shows that, although large-scale initiatives such as certified training courses on e-learning platforms have been organized, there remains a pressing need to go beyond teaching staff how to use the LMS. Attention should also focus on digital pedagogies.

Finally, curricular and pedagogical innovation remains the least developed aspect. While UBB's implementation of AR/VR technologies and AI-focused curricula represents promising progress, there is a need to embed digital competencies across disciplines. This requires translating innovative pedagogies at the Faculty level, improving blended and experiential learning models, and addressing the persistence of traditional teaching practices. The European Union's objective of creating "meta-universities" through transnational alliances offers significant potential to transform teaching and learning by emphasizing and embedding digitalization. All four universities participate in alliances funded by the European Commission, making teaching a central element of their digitalization strategies. The University of Western Timișoara has implemented virtual mobilities that allow students to take courses in partner

university consortia and has taken a leadership role in coordinating digital services and developing a virtual campus within the UNITA alliance. UBB and UB are also active participants, following closely within the Eutopia and Civis alliances.

These practices contribute to the internationalization of universities by enabling joint teaching programs, increasing student satisfaction, and fostering the development of new pedagogical approaches. They also offer important learning opportunities for the institutions themselves. Among the four universities, the University of Western Timișoara appears to be the most advanced, having implemented digitalization initiatives prior to the COVID-19 pandemic. Research on UVT indicates that this digital transformation represented an organizational change characterized by the adoption of a "digital way of thinking" (Grosseck et al. 2020, 568).

CONCLUSION

This paper has explored the digital transformation of higher education in Romania, focusing on both external and internal processes as key explanatory variables. By analyzing the digitalization strategies of four of Romania's leading universities, the study demonstrates that external influences, particularly from the European Union (policies and funding mechanisms), predominantly drive digital transformation. In contrast, national initiatives play a marginal and reactive role. The findings indicate that the EU has been the principal driver, providing financial resources to support digital investments and offering policy guidelines to help universities conceptualize digital transformation. National authorities, meanwhile, have exerted limited pressure compared to those in other EU countries, and Romania has yet to develop a robust national digitalization agenda, with only embryonic initiatives. The government has primarily acted as a policy-taker, translating EU actions without establishing a comprehensive digital education framework.

At the institutional level, universities have mainly responded reactively, setting digitalization agendas in response to the COVID-19 pandemic and the availability of EU funding opportunities. The strategies examined in this study emphasize developing digital infrastructure and improving administrative efficiency, while the transformation of teaching and learning practices, although highlighted as a strategic priority, remains less significant in practice. This supports the idea that, before the COVID-19 pandemic, Romanian universities essentially functioned as traditional brick-and-mortar institutions. The changes prompted by the pandemic required substantial resources, leading technology to be viewed primarily as an investment tool rather than as a means to fundamentally rethink educational philosophy and pedagogy.

The findings support the model proposed by Tømte et al. (2019) while highlighting Romania's reliance on external influences, particularly EU educational initiatives and financial incentives, coupled with a lack of entrepreneurial digital leadership. By incorporating the pedagogical perspective of Benavides et al. (2020), the study provides deeper insights into the development of digitalization within universities, framing it not only as a structural transformation but also as a transformation in teaching and learning practices.

From a policy perspective, these findings carry significant implications for other Central and Eastern European (CEE) universities undergoing similar transitions. Institutional leadership should move beyond compliance-oriented digitalization to take ownership of the digital agenda. This involves promoting participatory governance in the development of digital

strategies by engaging administrators and educators, integrating pedagogical innovation alongside technological investments, and strengthening the exchange of best practices within European university alliances, while drawing on insights from more digitally mature institutions. Such initiatives would foster a more balanced approach to digital transformation, one that harmonizes external alignment with internal agency and sustainability.

While the paper makes a solid contribution, it is not without limitations. It relies primarily on strategic documents, such as digital transformation strategies and annual reports, which may not fully capture the realities of digital transformation. It also does not include the perspectives of key academic stakeholders, such as administrators responsible for implementing digitalization strategies and department-level faculty members, who could shed light on the interplay between top-down and bottom-up factors. Future research should address these gaps. Additionally, examining the strategies employed by private universities would help contextualize differences between public and private institutions, as well as between higher-ranked and lower-ranked educational establishments.

CONTRIBUTOR

The author contributed solely to the intellectual discourse that forms the foundation of this article, as well as its writing and editing, and assumes full responsibility for its content and interpretation.

COMPLIANCE WITH ETHICAL STANDARDS

Acknowledgments:
This work was supported by the Jean Monnet Module project *Digital Teaching and Learning in the Field of EU Integration Studies in the New Member States (D-Skills)*, under the Jean Monnet Action (Jean Monnet Module-621280-EPP-1-2020-1-RO-EPPJMO-MODULE).

Disclaimer:
The European Commission's support for the production of this publication does not constitute an endorsement of its contents, which reflect the views only of the authors. The Commission cannot be held responsible for any use that may be made of the information contained herein.

Funding:
Not applicable.

AI Declaration:
The authors acknowledge the use of AI tools—specifically Grammarly—for improving the English language of the manuscript. These tools were used solely for language editing and clarity enhancement and did not contribute to the conceptualization, analysis, or development of the scientific content. The authors take full responsibility for the manuscript's originality, accuracy, validity, and integrity.

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Informed Consent:
Not applicable.

Disclosure statement:
Dr. Natalia Cuglesan, the author of this paper, is a member of the International Editorial Committee of the journal. The author confirms that this affiliation has not influenced the peer review or publication process and declares no conflict of interest.

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Journal of Legal and Political Education · Volume 2 · Number 2 · 2025 · eISSN: 2955-2389
Published online by the Institute for Research and European Studies at www.iies.mk/jlpe

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(*) Corresponding author
Peer review method: Double-blind
Research article
DOI: https://doi.org/10.47305/jlpe.2025.1964
Received: 10.12.2024 • Accepted after revision: 08.10.2025 • Published: 25.12.2025
Pages: 87-106

Copyright Law and Online Higher Education: Access to Knowledge and Emerging Legal Challenges

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Abstract: *The rapid advancement of technological tools in the Internet era has led to the widespread adoption of online education models such as Massive Open Online Courses (MOOCs), webinars, and live online classes. This shift was further accelerated by the COVID-19 pandemic, which required educational institutions to move to online teaching and learning. Online education enhances access to higher education by reducing physical, geographical, and financial barriers. However, the legal challenges of online higher education remain underexplored in the Indian context, particularly concerning authorship and ownership of educational content. This article examines these issues with a focus on copyright challenges faced by educators and institutions. Using a comparative doctrinal analysis of copyright laws across jurisdictions, the study demonstrates that insufficient awareness of copyright complexities may hinder the effective dissemination and sharing of knowledge.*

Keywords: *Online Education; Copyright Law; Higher Education; Authorship and Ownership; Digital Learning; Comparative Legal Analysis; India*

INTRODUCTION

Online education delivery has emerged in recent years as a new iteration of distance education, driven by rapid technological advances and the convenience it offers and with the advent of COVID-19, academic communities and universities turned to online teaching as the primary mode of interaction with students and the dissemination of learning during a period of unprecedented disruption. This increased reliance on online education has opened a broader discourse on the implications of this model for faculty, students, and traditional education, as it has long been understood. It has also created opportunities for scholarship examining the impact of online legal education.

However, in the Indian context, as online education has gradually evolved and been adopted, limited attention has been paid to the legal issues and implications that may arise in the conduct of online teaching. This is particularly true with respect to copyright issues. This article seeks to bring this aspect of the discourse into broader discussion and critical examination.

Until recently, universities have devoted relatively little attention to copyright issues in digital education or to the creation of copyrightable works by professors and academics, primarily due to the limited potential for financial exploitation of such works (Kwall 2001, 1–2). As Robert A. Gorman (2000, 297) notes, "Copyrightable works generated in universities have rarely promised income of any magnitude, and therefore universities have traditionally taken little interest in such issues."

Furthermore, universities have more often occupied the role of users or consumers of copyrighted works, such as materials included in course packs or lecture resources, rather than that of creators or owners (Gorman 2000, 314). This dynamic has shifted significantly with the increasing popularity of online education, which owes much of its success to technological advances and the growing commercialization of higher education (Gorman 2000, 298). The rising importance of intellectual property for industry has, in turn, led to government-supported schemes and strategies that encourage universities to promote innovation and develop intellectual property.

Internet technologies and online education models have developed more rapidly than the legal frameworks designed to regulate them, and the contours of copyright ownership in online courses remain unclear, particularly in India. As Kezar and Bernstein-Sierra observe, "The shift from traditional classroom to online teaching implies more than just a venue change. This shift carries several legal and practical implications for faculty and universities" (Kezar and Bernstein-Sierra 2017). This transition has fundamentally transformed certain aspects of authorship and ownership in online pedagogy, unsettling traditional understandings of authorship rooted in print culture and analog copyright law.

This article provides a brief overview of the contemporary landscape of online education. The first section examines the evolution of online education across multiple generations, from correspondence-based learning to telecommunications media and, ultimately, digital technologies. It explores key theoretical frameworks for assessing the implications of online education, particularly the gradual shift from the teacher as the sole author of educational materials to teachers as participants in a broader collaborative process of creation.

The discussion then focuses on digital pedagogies and the transformation of authorship, analyzing how the nature of online education has reconfigured authorship from a solitary endeavor into a collaborative practice. It then examines the principal copyright challenges arising from this new model of authorship, drawing on comparative perspectives from various jurisdictions and the Indian context. In this regard, it also analyzes the intellectual property policies of selected universities to assess how they address ownership issues. The analysis further integrates legal analysis with normative discussion to assess how authorship should be reformulated or reconceptualized to better serve the online educational environment. The central argument advanced in this article is that authorship in online education has shifted from an individual, proprietary model toward a relational and distributed practice shaped by technology, law, and pedagogy. The article concludes by offering recommendations for a framework capable of addressing these evolving developments.

METHODOLOGY

This paper uses a doctrinal approach, complemented by a critical socio-legal perspective. This allows the study to examine not only the legal foundations of the concepts but also their broader normative and societal implications. The analysis relies on a comprehensive review of primary sources, including peer-reviewed journals, scholarly books, policy papers, and publications from reputable organizations, ensuring both academic rigor and practical relevance.

THE HISTORY AND EVOLUTION OF DISTANCE EDUCATION: FROM SEPARATION TO VIRTUAL LEARNING

The Evolution of Technological Perspectives

Distance education has long been a mode of educational delivery, practiced worldwide to provide learning opportunities to those who are either unable or unwilling to participate in traditional classroom teaching (Holmberg 1995). It has been defined as "a field of education that focuses on pedagogy and andragogy, technology, and instructional systems design, aiming to deliver education to students who are not physically on site" (AICTE). Another commonly cited definition states that distance education "usually involves a situation where learners are separated from their teachers, and it includes systems (electronic or otherwise) to establish and maintain communication between teacher and learner to promote learning, assessment, and support" (Panchabakesan 2011, 113).

The evolution of distance education is often described in three main generations, primarily linked to changes in the technologies used to deliver it. The first generation primarily relied on printed texts and materials disseminated through postal services (Aoki 2012, 1184). Since the early 20th century, many colleges and universities across Europe, the United States, and India have begun offering correspondence courses. At the time, distance education was commonly referred to as correspondence education because learning materials were shared via post and consisted of printed or photocopied content.

In India, distance education has been prevalent for nearly half a century in various forms. In 1961, the Government of India established a commission under the chairmanship of Dr. D. S. Kothari, then Chairman of the UGC, to study the introduction of correspondence courses. The committee observed that "the correspondence method admits greater flexibility than classroom education, particularly in the combination of subjects leading to a degree, and this is an advantage that should be fully exploited in the interest of sound education" (Panchabakesan 2011, 114). Consequently, the first correspondence courses were introduced in 1962.

The second generation of distance education is characterized by the use of radio and television to supplement printed materials. This generation is also referred to as the "industrial mode of distance education, with a highly specialized division of labor in producing and delivering instructional materials" (Aoki 2012, 1184). It also expanded the reach of courses, making them accessible to thousands of learners.

The third generation of distance education uses information and communication technologies, especially the Internet, to deliver educational content and support interaction between teachers and learners. Online education, also called digital learning, refers to Internet-enabled instruction and training (Dhanasegaran 2006, 2). Its core elements include content delivery in multiple formats, structured learning experiences, and a connected community of learners, experts, and program developers (Dhanasegaran 2006, 2).

The Internet has revolutionized distance education, enabling the delivery of entire courses, degrees, and programs with a single click (Colyer 1997, 41). It has also advanced various fields, including science, healthcare, and education (Masrek and Baharuddin 2023, 47).

The Evolution of Pedagogical Perspectives

There have been criticisms of classifying distance education solely by the technologies employed. Anderson and Dron (2010) propose an alternative framework that identifies three generations of distance education based on their dominant pedagogical approaches. They emphasize pedagogy as the factor that "defines the learning experiences encapsulated in the learning design" (Anderson and Dron 2010).

The three pedagogical generations are cognitive-behaviorist, social constructivist, and connectivist. Cognitive-behaviorist pedagogy primarily focuses on how learning was defined, practiced, and researched in the late 20th century. Behavioral learning emphasizes learning as a change in observable behaviors acquired through exposure to stimuli, measuring behaviors rather than attitudes. Cognitive behaviorism, on the other hand, concentrates on individual learning centered on content and designed for high scalability (Anderson and Dron 2010). Social constructivism emphasizes group interactions and the synthesis of knowledge, aligning more closely with the practices of distance education. This pedagogy gained traction with the rise of networked technologies, which enabled many-to-many communication (Anderson and Dron 2010). Finally, connectivist pedagogy highlights the role of networks in learning. It assumes that learners have access to vast amounts of knowledge and content, which they must navigate effectively to apply meaningfully. This approach is particularly relevant for Internet-based distance education, where learners must traverse extensive online resources to benefit fully.

The nature of distance education has therefore evolved gradually, from "pencil-and-paper correspondence courses" to real-time online instruction (Vencatesan 2006, 891). Consequently, numerous terms have emerged to describe the field, reflecting the technological tools used to facilitate learning. These include remote learning, distance learning, e-learning, flexible learning, open learning, blended learning, hybrid learning, web-based learning, online learning, mobile learning, and technology-enhanced learning (Zawacki-Richter and Jung 2020, 6). Zawacki-Richter and Jung use the term "Open, Distance and Digital Education" to capture both the historical origins and the evolution of the field in its various forms (Zawacki-Richter and Jung 2020).

A related concept often used synonymously with online education is open education. However, Moore and Kearsley (1996, 2) argue that the two are distinct. They observe that open learning "embraces the idea of students being able to take courses or programs without prerequisites and being able to choose to study any subject they wish" (Moore and Kearsley 1996). Open learning operates on the philosophy of broadening access to educational opportunities by reducing academic and administrative barriers.

The literature in this area examines the impact of the Internet on distance education, particularly on students' learning outcomes (Luvai Motiwalla and Steven Tello 2000; Akpan and Akpan 2017), as well as its contribution to collaborative learning (Chukwunonso, Ibrahim, Selamat, Idama, and Gadzama 2013). Chukwunonso et al. (2013, 8) note that the challenge with adopting network technologies is not their implementation but their effectiveness in achieving students' learning outcomes.

The nature of the challenge has shifted from a scarcity of information and difficulties in dissemination to an overwhelming abundance of information, knowledge, and data available at our fingertips at any given moment (Colyer 1997, 42). Masrek and Baharuddin (2023, 47) explore

this phenomenon of "information overload" and its effects on students' anxiety and stress levels, as well as the coping strategies they employ to manage the constant influx of information.

Moreover, the widespread use of Internet technologies has raised important questions regarding copyright protection for educational materials in this domain. A review of the literature on distance education over the past decade suggests that scholarship has primarily focused on the various types of distance education, the tools and technologies involved, the benefits of distance learning, and operational issues related to course and content development. Of particular relevance to the present discussion is the literature examining the impact of the Internet on the nature and scope of distance education, as well as the attendant copyright issues it raises.

Digital Pedagogies and the Transformation of Authorship in Practice

One of the key concerns highlighted in the literature on distance education is the quality of course content and curriculum development. Scholars have argued that course content for online models must "move beyond adapting or modifying existing course material and should also focus on course structure, presentation, flexibility, and course pacing" (Vencatesan 2006). There is a recognized need for high-quality, interactive, and engaging course materials that can attract and retain learners. To achieve this, blended learning, rather than purely synchronous or asynchronous approaches, has been suggested as a more desirable model (Bartholet et al. 2016). Additionally, it has been argued that education should shift away from a teacher-centered model, in which instructors decide "what is important and relevant," toward a learner-centered approach where students determine what they are learning and why (Jona 2000).

In recent years, the Government of India has recognized the potential of digital education and introduced regulations to promote its use. For example, in 2018, the University Grants Commission (UGC) released the University Grants Commission (Online Courses or Programmes) Regulations, 2018, which allow higher education institutions that meet specified conditions to offer online courses (UGC Regulations 2018, REGD No. D. L. 33004/99). This was followed by the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020. Furthermore, the Ministry of Education launched the MOOC platform SWAYAM, which offers a wide variety of online courses across disciplines, and SWAYAMPRABHA, which provides educational channels through DTH under the Digital Initiatives in Higher Education program.

A single individual does not design these courses. Instead, they result from the collaborative efforts of multiple actors, including subject designers, course instructors, web developers, and media specialists (Trentin 2001, 47–48). Consequently, online education transforms teachers' roles from sole content authors to participants in the course-delivery process. This shift affects not only their role in the classroom but also their identity as the exclusive authors of educational materials. The design of an online course typically involves two related phases: the course plan and the communication architecture for its development. Economic constraints shape these courses, the profiles of target participants, the types of technologies used, and the availability of experts and producers of ad hoc learning materials (Trentin 2001, 49).

The development of online resources has not only transformed the learner experience but has also fundamentally altered conceptions of authorship, ownership, and the intellectual property embedded in these courses. Although literature on ownership of online courses and materials is limited in the Indian context, this discourse has been ongoing internationally, particularly in countries such as the United States since the early 2000s. Technology has "unquestionably complicated the issue of intellectual property in higher education, with ownership being one of the most widely debated issues due to the economic benefits of international distribution" (Munigal 2016). Traditionally, academic institutions and universities have not clearly addressed ownership of faculty-created intellectual property, and legal frameworks have remained unclear or silent on these emerging issues. In response, universities and governments are increasingly developing policies to provide clarity and address these developments (Munigal 2016). The growing economic potential of online educational works has also made universities aware that it may not be financially prudent to allow intellectual property to remain under the ownership of individual faculty members (Kezar and Bernstein-Sierra 2017).

Authorship in Copyright Law: Evolution Through the Ages

From the perspective of the present, it is difficult to imagine a time when the author was not considered a central figure in discussions surrounding copyright and literary property. However, the author was not always the fixture within copyright discourse that we recognize today. In her historical investigation of 18th-century Europe, Martha Woodmansee (1984) shows how the professionalization of writing during this period influenced perceptions of the creative process and the practice of writing. As writing became a commercial enterprise, writers seeking to earn a livelihood from their craft played a key role in shaping the modern conception of the "romantic author," an individual endowed with "personal genius" capable of producing works of literary merit through sheer brilliance, wit, and internal inspiration (Woodmansee 1984).

Although attributing such qualities of "genius" to authors may appear self-congratulatory, these claims were strategic. They aimed to establish the writer's ownership of their creations, asserting that such works originated solely with the individual. Coupled with theories of natural law, this allowed authors to claim legal protection for their intellectual labor. Prior to this period, writers and artists relied on aristocratic patronage to support their work. However, the advent of the printing press, the broader distribution of books, and rising literacy among the middle classes created a growing demand for reading material. These changes enabled writers to contemplate earning a livelihood through their art, something previously unattainable. In the early days of the publishing industry, writers typically surrendered their manuscripts to publishers for a modest honorarium, a sum "not in proportion to or equivalent to the services performed" (Woodmansee 1984).

The relationship between writers and publishers was initially one of mutual understanding akin to patron and client, in which offering more than a token sum was considered inappropriate because writing was not viewed as a commercial enterprise. However, as demand for books increased and the possibility of earning a living through writing emerged, the imbalance became untenable. Writers began to demand fair compensation for their work, challenging the prevailing practice in which publishers profited while writers remained impoverished. This tension culminated in the enactment of the Statute of Anne in 1709, the first

copyright statute in England, which played a crucial role in embedding the notions of authorship and originality within copyright law. As Peter Jaszi observes, "although the concept of 'authorship' was introduced into English law for the functional purpose of protecting the interests of booksellers, the term took on a life of its own as individualistic notions of creativity, originality, and inspiration were poured into it" (Jaszi 1991, 455).

Since then, this conception of authorship has remained influential in copyright discourse, though not without its critics. For example, Boyle views authorship as a pervasive presence that governs the production and dissemination of knowledge (Boyle 1997). In this framework, the "romantic author guides the commodification and allocation of rights over information, constructs moral hierarchies, rationalizes exclusion, and shapes normative assumptions around legal ownership and entitlement" (Boyle 1997, 51–60). Despite numerous technological changes over time, this conception of authorship has persisted and continues to influence contemporary interpretations. The implications of this understanding of authorship will be explored below.

Copyright Issues in Distance Education

The discussion of copyright law in relation to education has a long history, often arising in response to technological changes that made copying copyrightable works easier. Colyer (1997) identifies the photocopying machine as the first technology to challenge copyright. This development fundamentally altered the landscape of copyright protection, as the general public no longer needed access to heavy, unwieldy machinery to make copies. Colyer, citing Wincor (1994), observes: "Our copyright approach began and has largely remained a series of reflexes to the development of new technology, not a declaration of natural law or some other principle supporting the protection of intellectual productions" (Colyer 1997).

It is therefore evident that the development of copyright law has largely been reactive, evolving to accommodate changes in the creation and dissemination of creative works. Ayyar (2021) highlights several key differences between Internet technologies and earlier technologies. First, previous technologies typically addressed only one type of copyrighted product at a time; for instance, photocopying focused on text, sound recordings reproduced audio, and video recording dealt with both images and sound. The Internet, however, dissolves these distinctions by enabling the simultaneous reproduction of multiple content types. Second, the Internet enables the creation of perfect copies indistinguishable from the original. Third, once a work is disseminated over the World Wide Web, it can be accessed by anyone with a computer and Internet access. These factors make the regulation of reproduction and dissemination rights under copyright law extremely challenging. Unlike earlier technologies, the Internet alters nearly every aspect of interacting with a copyrighted work (Ayyar 2021, 107).

The introduction of photocopying technology had already disrupted the academic community, providing a simple method to reproduce essential works while raising questions about copyright protection. The challenges posed by this technology have been greatly magnified with the advent of Internet-based educational technologies, which enable the global dissemination of educational materials, courses, and entire programs.

Most literature on the intersection of distance learning and copyright law originates in Western countries, such as the United States and the European Union. Copyright issues in digital distance learning arise primarily in two ways: first, through the use of pre-existing copyrighted

materials in course packs, classroom instruction, or library-facilitated resources; and second, through the creation of new copyrighted materials during or prior to the course, raising questions about ownership. Western scholarship has predominantly focused on the first issue, though some studies also explore the latter.

The United States enacted the Digital Millennium Copyright Act (DMCA) in 1998 in response to the rapid growth of digital technologies. The DMCA introduced stringent provisions, including anti-circumvention measures, providing rights holders with additional tools to protect their interests. However, these protections also made it more difficult for students in distance learning programs to disseminate or publicly perform copyrighted materials online. A substantial body of scholarship has analyzed the impact of copyright law on digital distance education.

For example, Gasaway (2001) examines the first facet of the interaction between copyright and distance learning, focusing on the performance and display of copyrighted works in instructional settings, the distribution of course materials to students, and the role of libraries in supporting distance learners (Gasaway 2001, 784). Her analysis is grounded in US copyright law, particularly the Copyright Act of 1976, and highlights several key issues. One such issue concerns Section 110(2), which permits "the performance of entire non-dramatic literary and musical works and the display of any work in educational transmissions" (Gasaway 2001, 785), as well as the broader challenges of applying fair use in distance learning contexts.

Gasaway also emphasizes the gap between educators' perceptions and legal realities. Many instructors do not distinguish between classroom teaching and distance education, assuming that distance learning enjoys the same copyright exemptions as in-person instruction. This assumption creates legal challenges because the law does not automatically treat digital or distance education in the same way as traditional classroom instruction. Section 110(2) proved inadequate for supporting distance learning, leading to the enactment of the Technology, Education, and Copyright Harmonization (TEACH) Act, signed into law by President George W. Bush in 2002 (Reyman 2006, 31). The TEACH Act extended certain rights from in-person classroom instruction to digital and distance learning environments, addressing critical gaps in copyright law (Reyman 2006, 31).

From a European perspective, Xalabarder (2004) examines the extent to which limitations and exceptions available for teaching in analog settings apply to educational activities conducted on digital platforms, such as the Internet, at both international and domestic levels. She analyzes Article 10.2 of the Berne Convention to determine whether it encompasses digital or distance teaching. By focusing on the term "utilization," Xalabarder argues that the article could cover not only reproduction rights but also the right of communication to the public, thereby including distance and digital learning activities within its scope. She further references the European Union's Directive 2001/29/EC, specifically Article 5.3(1), which provides exceptions for teaching purposes: "Use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the non-commercial purpose to be achieved."

Xalabarder, reading the article in light of Recital 42, argues that it is clear the teaching exception covers the right of communication to the public, applying to both in-person and distance education. The work further examines whether downloads of transmitted materials by recipients, i.e., students, fall within these teaching exceptions. Additionally, Xalabarder reviews

the domestic legislation of EU countries to address questions regarding the scope of works to which limitations may apply, the beneficiaries of these exceptions, and the purposes for which they may be used, among other issues.

This analysis highlights the need to address the second facet of distance or digital learning, namely, the creation and ownership of materials, particularly in Global South countries like India.

In India, copyright ownership is governed by Section 17 of the Copyright Act, 1957, which identifies the first owner of a copyrighted work. According to this provision, the author of a work is generally the first owner of the copyright (*Blueberry Books v Bharti Goyal* [2019] AIR 84 [Delhi]). Section 2(d) defines "author" as follows: the writer of a literary or dramatic work; the composer of a musical work; the artist of an artistic work (other than a photograph, whose author is the photographer); the producer of a cinematograph film or sound recording; and in the case of computer-generated literary, dramatic, musical, or artistic works, the person who causes the work to be created.

Section 17 also provides specific exceptions to this general rule, as outlined in its provisos:

(a) For a literary, dramatic, or artistic work created by the author in the course of employment for a newspaper, magazine, or periodical, the owner of the publication is the copyright owner with respect to publication in that medium; in all other respects, the author remains the copyright owner (S. 17 proviso (a)).

(b) For a photograph, painting, portrait, engraving, or cinematograph film, the person who provides valuable consideration is the first owner (S. 17 proviso (b)).

(c) For works created in the course of the author's employment under a contract of service or apprenticeship, the employer is the first owner (S. 17 proviso (c)).

(cc) For speeches or addresses delivered publicly on behalf of another person, that other person is the first owner (S. 17 proviso (cc)).

(d) For government works, the government is the first owner (S. 17 proviso (d)).

(dd) For works made or first published under the direction or control of a public undertaking, the public undertaking is the first owner (S. 17 proviso (dd)).

(e) For works of international organizations, the organization itself is the owner (S. 17 proviso (e)).

All of these clauses are subject to any contrary agreement.

In the context of producing teaching materials for online education, Proviso (c) of Section 17 is of particular interest. Faculty members are typically employed by universities while creating teaching materials. To determine copyright ownership in a traditional physical classroom setting, it is necessary to assess whether the materials were created "in the course of employment" and under a "contract of service."

The provisions of Section 17 raise questions about the meaning and scope of terms such as "course of employment" and "contract of service," prompting courts to interpret them. According to *Halsbury's Laws of England*, the distinction between a contract of service and a service contract is the same as that between an employee and an independent contractor.

An employee is a person subject to an employer's directions regarding how work should be performed. Factors such as the degree of employer control, the service provider's

independence, and the place of service are relevant in determining whether a contract of service exists (Chawla 2013).

Case law identifies several factors to assess whether a person is engaged under a contract of service:

- Direct control by the employer;
- Degree of independence of the person providing the service;
- Place where the service is performed;
- Employer's directions regarding how the work is to be performed;
- Whether the work is integrated into the business;
- Intention of the parties (Chawla 2013).

In the context of academic institutions, copyright disputes have often involved the ownership of question papers. A notable case in England is *University of London Press v University Tutorial Press* ([1916] 2 Ch. 601), which addressed the distinction between a contract of service and a service contract. The Court considered the "freedom enjoyed by the paper-setter as to the time and space for preparing the question paper and the skill and judgment required of the examiner." It concluded that the paper-setter was working under a service contract (as an independent contractor). Therefore, copyright vested in the paper-setter (James 2004).In India, similar issues have arisen. In *Jagdish Prasad Gupta v Parmeshwar Prasad Singh* ([1996] Cri L.J. 154), the Court held that paper-setters were the first owners of the copyright in the question papers they created. In *Agarwala Publishing House v Board of Higher Secondary and Intermediate Education*, UP ([1967] AIR 91 [All]), the Court referred to both the *University of London Press* case and the *Jagdish Prasad Gupta* case. Similarly, it held that the first owner of copyright in question papers would be the paper setter.

An additional question considered by the Court was whether question papers could be classified as "government work" under Section 2(k) of the Copyright Act, 1957. The Court observed:

> The Board exercises no control, in the true sense of the term, over the actual preparation of the question papers set for its examinations. It engages persons who have specialized knowledge of the subjects prescribed for the examinations and asks them to set papers on those subjects within the prescribed curriculum; but having entrusted the work to those persons, the Board leaves them to carry it out by using their own skill and discretion, without any further interference or guidance from the Board. Paper-setters are thus not in the position of servants, acting under a contract of service and subject to the commands of the master as to the manner in which they shall work, but are to be considered rather as independent contractors, acting under a contract for services and not subject to direct control in the performance of those services.

These cases highlight the importance of distinguishing between employment-based and independent arrangements when determining copyright ownership, particularly in academic contexts involving teaching and assessment materials.

The courts have consistently held that, in the absence of an assignment or contract relinquishing copyright, question papers set for examinations belong to the paper-setter (James 2004).

Another recurring issue concerns ownership of books, papers, and articles authored by academics during their university employment. The general understanding has been that creative works such as fiction, drama, or poetry are personal, and copyright in them belongs to the author regardless of their employment status (James 2004). However, questions arise when a professor writes a book on a subject they teach. This issue was addressed in the UK case *Stevenson, Jordan Harrison Ltd v MacDonald and Evans* ([1952] 1 TLR 101), where the Court held that a teacher who writes a textbook on the subject they teach is the author and entitled to copyright, as their employment obliges them to teach, not to write textbooks ([1952] 1 TLR 101).
In India, the treatment of course packs has primarily been addressed through the lens of fair use. In *The Chancellor, Masters and Scholars of the University of Oxford and Ors. v Rameshwari Photocopy Services* ([2017] 1 MIPR 39), the Delhi High Court examined whether reproducing books purchased by the university and distributing copies to students constituted copyright infringement. The Court held that "reproduction of any copyrighted work by a teacher for the purpose of imparting instruction to pupils as prescribed in the syllabus during the academic year would fall within the meaning of Section 52(1)(i) of the Copyright Act, 1957" ([2017] 1 MIPR 39). This case primarily addressed fair use of copyrighted materials owned by others, not ownership of the course materials themselves.

An overview of the jurisprudence indicates that questions concerning ownership of online course materials have not received substantial attention in India. The issue is particularly complex because online course materials often comprise "a collection of non-copyrighted and copyrighted material from a variety of sources used under the fair use doctrine" (Munigal 2016). In the digital age, determining the "original work of authorship" has become an ambiguous foundational concept requiring clarification (Munigal 2016). Complicating matters further, online course development is a collaborative enterprise that involves faculty as content experts, with instructional design and technical support provided by the University (Kezar and Bernstein-Sierra 2017). The use of university resources may be considered an investment, giving the institution grounds to claim sole or joint ownership of such courses (Kezar and Bernstein-Sierra 2017).

Given the lack of legislative clarity and minimal case law on the ownership of online course materials, many universities have formulated their own intellectual property (IP) policies. The Government of India has also attempted to guide the release of model guidelines. The Cell for IPR Promotion and Management of the Department for the Promotion of Industry and Internal Trade released the Draft Model Guidelines for the Implementation of the IPR Policy on September 9, 2019. These guidelines are based on the World Intellectual Property Organization (WIPO)'s "Guidelines on Developing Intellectual Property Policy for Universities and R&D Organizations" and on the IP policies of various universities (Saha and Kaushik 2020). The primary objectives are "to create a national institutional framework for knowledge creation and its commercial exploitation, as well as to provide an interface between the creators of intellectual property and industry to translate the knowledge into consumer products" (Saha and Kaushik 2021).

Even before the introduction of formal guidelines, universities had implemented their own intellectual property (IP) policies. Broadly, as explored by a recent study (Srivastava, Williams, and Lal 2024), these IPR policies generally consider the following aspects:

- Ownership of intellectual property generated within the universities;
- The role of the technology transfer office or IPR cell;
- Procedures for disclosing inventions in the proper format;
- Various existing Non-Disclosure Agreements (NDAs), including prevention, grant, and other agreements established prior to filing IP;
- Procedures formulated by the office for protecting IP;
- Information regarding any waiver of ownership.

The IPR policies adopted and implemented by various universities and research institutions in India and abroad are often available on their official websites and on the World Intellectual Property Organization (WIPO) website, ensuring easy access for relevant personnel (Srivastava, Williams, and Lal 2024). In their study, Srivastava et al. (2024) selected 10 Indian research institutions and 10 foreign universities/research institutions to examine their IP policies and conduct a comparative analysis of their similarities and differences. The Indian institutions were chosen based on the National Institutional Ranking Framework (NIRF) of the Ministry of Education, Government of India, for the year 2021. Key institutions analyzed included the Indian Institutes of Technology (IITs) Chennai, Bombay, Kanpur, and Delhi; the Indian Institute of Science; Jawaharlal Nehru Centre for Advanced Scientific Research; and Vellore Institute of Technology, among others.

Analysis of these policies revealed several common features. First, all institutions clearly defined "substantial use of resources." Second, all addressed ownership of intellectual property "generated using the substantial resources of the institutions" (Srivastava et al. 2024). In most cases, the universities retain copyright over the inventions or creations.

In addition to these leading institutions, other universities have also implemented IP policies. For example, the All India Institute of Medical Sciences (AIIMS), Delhi, implemented its IPR policy in 2017, addressing ownership in scenarios such as: IP generated by inventors with or without intramural funding, IP generated with external sponsors, IP generated under collaborative research, and IP generated as part of degree programs at all levels (AIIMS IPR Policy 2017).

Guru Nanak Dev University, Amritsar, addresses educational materials, including online course content, in its Miscellaneous section. It states that "the creator of the educational materials will generally own educational materials produced in the normal course; certain circumstances may, however, give rise to claims of joint ownership by the University." The policy further notes that "since all possible situations cannot be envisaged, each particular situation will be evaluated on its own facts to determine ownership interests" (Amritsar University IPR Policy 2021).

Ashoka University takes a slightly different approach. Its IPR policy states that for every academic or teaching program, the university owns the IP concerning the curriculum, including course structure, prerequisites, descriptions, lab experiments, and pedagogy, while copyright in teaching and learning materials remains with the faculty (Ashoka University IPR Policy).

These examples illustrate that universities across disciplines have developed their own IP policies to address uncertainties regarding the ownership of educational and online course materials.

AUTHORSHIP REIMAGINED: A RELATIONAL AND ETHICAL APPROACH

As discussed earlier, the romantic notion of authorship has long dominated the conceptualization of the author in copyright law and continues to shape prevailing understandings. However, scholars such as Woodmansee (1984), Jaszi (1991), and Cohen (2007) have proposed a cultural theory of authorship, which diverges from the romantic model. This theory emphasizes the communitarian aspect of authorship, situating the author within their cultural context and linking authorship to the "social existence within which the author is situated" (Shi and Fitzgerald 2008).

The romantic author paradigm has been further challenged since 1968, when Roland Barthes, in his essay "The Death of the Author," argued from a structuralist and post-structuralist perspective that the author is not merely a singular "person," but rather a "socially and historically constituted subject" (Shi and Fitzgerald 2008 2). Similarly, Michel Foucault, in his 1969 article "What Is an Author?," introduced the concept of the "author function," suggesting that the author's name signals the status of a discourse within society and culture (Shi and Fitzgerald 2008). Foucault's approach reexamines and foregrounds the reader's role in constructing textual meaning.

In contemporary times, the author-centric regime of copyright law has been disrupted by networked communication technologies, which have transformed the creative process by foregrounding peer production, sharing, and collaborative activity. Lior Zemer (2007) critiques copyright law for "rejecting the very nature of copyright creation as a collectively imagined and produced activity, and denying the contribution of the public to the copyright creation process." Consequently, scholars have advocated for a model of relational authorship, in which the author is understood not as an isolated entity but as a positioned individual embedded within their community, society, and other networks. This participatory web of creation has become increasingly complex with the proliferation of networked technologies.

As highlighted in previous sections, attempts to apply traditional models of authorship to the distributed practices of online education often produce uncertainty and inequity. Therefore, there is a compelling need to reconceptualize authorship in relational terms. Carys Craig observes that "a relational author is always already situated within and constituted by the communities in which she exists, and the texts and discourses by which she is surrounded." This perspective is highly relevant to online education, as it emphasizes social and cultural contributions rather than solitary effort, capturing the diverse contributions of all actors involved in creating digital educational materials. By adopting a relational lens, the complex relationships inherent in online education models can be better understood and fairly assessed.

CONCLUSION

The analysis in this article indicates that the development and dissemination of education through Internet technologies in India remain at an early stage. While distance education has long been part of the Indian educational framework, the integration of Internet technologies is relatively recent, and significant efforts are required to harness the opportunities it presents fully. In parallel, questions surrounding intellectual property (IP) in this context remain unresolved.

Furthermore, there is a need to reconsider the language used to understand authorship and ownership in relation to digital educational content. As discussed in the previous section, traditional models of authorship must be challenged and reconceptualized in relational terms. Such an approach highlights the contingent nature of creation and emphasizes the social and cultural context in which educational materials are produced.

The IP policies adopted by different universities are diverse and fragmented, reflecting their individual operational models and needs (Saha and Kaushik 2021). A more uniform and coherent policy framework, adaptable to the requirements of individual institutions, is essential to reduce uncertainty and confusion.

Although the Draft Model Guidelines were a positive initiative aimed at providing clarity, they have faced criticism for their vagueness and ambiguity. Key concerns include the absence of a clear definition of "academic institutions" and potential conflicts with the National Innovation and Startup Policy 2019 regarding IP ownership of work developed using substantial institutional resources or as part of academic activities. In some cases, the Draft Model Guidelines may inadvertently increase ambiguity rather than resolve it. Consequently, there is a pressing need for collaboration among universities, policymakers, and educators to develop a practical, context-sensitive approach to intellectual property governance in online education.

This study primarily relies on a doctrinal and policy-based analysis of existing guidelines and university practices, without empirical data from institutions or educators directly implementing online education. As a result, the findings may not fully capture the practical challenges and institutional variations across India. Moreover, the research focuses on higher education and may not reflect the experiences of primary or secondary education institutions adopting Internet-based learning. Future research incorporating empirical case studies, stakeholder interviews, and comparative analyses could provide a more comprehensive understanding of the evolving landscape of online education and intellectual property in India.

CONTRIBUTOR

The author contributed solely to the intellectual discourse that forms the foundation of this article, as well as its writing and editing, and assumes full responsibility for its content and interpretation.

COMPLIANCE WITH ETHICAL STANDARDS

Acknowledgments:
Not applicable.

Funding:
Not applicable.

AI Declaration:
The authors acknowledge the use of AI tools—specifically ChatGPT-5—to assist in translating and enhancing the clarity and quality of the English language in this manuscript. These AI tools were employed solely for language refinement and were not involved in the conceptualization, analysis, or development of the scientific content. The authors assume full responsibility for the manuscript's originality, accuracy, validity, and integrity.

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Statement on the Welfare of Animals:
This article does not contain any studies with animals performed by any authors.

Informed Consent:
Not applicable.

Disclosure statement:
No potential conflict of interest was reported by the author/s.

PUBLISHER'S NOTE

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